84-1146 ①

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No.

IN THE

Supreme Court of the United States

October Term, 1984

FRANK PRAVDA

Petitioner

V.

ROBERT HALL, SR.; JACK DAKE; ROBERT ABRAMS;
JAMES R. NICHOLS, SR.; JOHN D. HALL, JR.;
J. J. BARGOUR; DAVID A. WAIT; MAX HUGHES;
JOSEPH COOPER; STATE OF NEW YORK;
ROBERT CHAUVIN; JOHN HALL, SR.; G.B. VAN HEUSEN;
COUNTY OF SARATOGA, N.Y.; AL CUCCICO;
JAMES BOWEN; TOWN OF MALTA, N.Y.;
EDWARD POWERS.

Respondents

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Frank Pravda
General Delivery
Flemington, New Jersey 08822

QUESTIONS PRESENTED FOR REVIEW

1. Whether the duty of the Lower Courts to act to preserve the integrity of the System of Justice has been blatantly disregarded by their refusal to enjoin the defendants and their operatives from continuing their obstructing of the due course of justice in this matter?

2. Whether given the demonstrated ability of the defendants and their operatives to subvert the sacred institutions entrusted to their care and their demonstrated ability to repeatedly violate the constitutional rights of Frank Pravda; injunctive relief is warranted to arrest their activities directed against plaintiff pending the resolution of this entire lawsuit?

3. Whether the principle of equality before the law operates when powerful government based defendants and their operatives are permitted to seize, harass, intimidate, injure, and obstruct a single lone

plaintiff citizen during the course of an action in Federal Court ; without affording the victim plaintiff appropriate relief.

4. Whether the District Court's de facto denial of injunctive relief to plaintiff, and the Second Circuit's affirmation of that denial, is supported by Congressional intent within the framework of the Civil Rights Statutes.

5. Whether there has been a blatant disregard of their duty by the Lower Courts to serve the needs of Justice in this matter by their refusal to consider the facts of the continuing nature of the pervasive government based conspiracies against the plaintiff; in arriving at their decisions in this action.

6. Whether an armed policeman sitting in the place of a librarian in a public law library wherein a plaintiff in a federal action against police defendants, government officials, and others seeks to dis-

cover legal matters to conduct the prosecution of his action ; constitutes an act of tyranny and is intolerable violation of the plaintiff's constitutional rights?

7. Whether the Courts below have substantially de facto defeated Plaintiff's rights to due process and equal protection of the law by tacit approval of pervasive powerful government based conspiracies against plaintiff as a vulnerable lone citizen?

8. Whether stringent circumstances exist in this matter that warrant exercise of pendent appellate jurisdiction to consider related rulings,to prevent immediate and irreparable injury to plaintiff flowing as a consequence of those rulings?

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OPINIONS BELOW

Frank Pravda petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this matter. The Opinion of the United States Court of Appeals for the Second Circuit has not been reported and is set forth in the Appendix, pp. 1a-6a. The Opinions of the United States District Court for the Northern District of New York have not been reported and are set forth in the Appendix, pp. 7a-39a.

JURISDICTION

The judgment of the Court of Appeals was rendered on October 19, 1984. No petition for a rehearing having been filed. The jurisdiction of this Court to issue a writ of certiorari in this case is grounded on 28 U.S.C. § 1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Article IV - Section 2., Amendment IV, Amendment V, Amendment VI, Amendment VIII, Amendment IX, Amendment XIV of the Constitution of the United States; which are set forth in the Appendix, pp. 246a-249a.

This case also involves Title 42 - Section 1985 (2), Title 42 - Section 1985 (3), Title 42 - Section 1983, Title 28 - Section 1292 (a)(1) (b), Title 28 - Section 1343 (a)(1)(4) of the United States Code; which are set forth in the Appendix, pp. 250a-255a.

STATEMENT OF THE CASE

1. Statement of Facts

Petitioner is the plaintiff, Frank Pravda, named in a Complaint filed in the United States District Court for the Northern District of New York on June 21, 1982, in which he sought compensatory and punitive damages for injuries resulting from a conspiracy that he alleges was formed, and undertaken and that continues to operate to deprive him of his constitutional rights, and to injure him in his person and property.

In his Complaint Petitioner Pravda listed twelve counts as follows:

I. Conspiracy in violation of 42 U.S.C. Section 1985 (3).

II. Conspiracy in violation of 42 U.S.C. Section 1985 (2).

III. Violation of 42 U.S.C. Section 1983; Constitution of the United States, Amendments IV, V, VI, VIII, XIV.

IV. Statutory Conspiracy (Violation of Section 105 of the Code of New York).

V. Violation of 18 U.S.C. Section 1341 (Mail fraud).

VI. Assault

VII. Battery

VIII. False Imprisonment

IX. Invasion of Privacy

X. Intentional Infliction of Emotional Distress.

XI. Grand Larceny

XII. Torture

In compliance with a Court Order an Amended Complaint was filed on December 1, 1983; restructured to list sixty causes of action; which eliminated the Statutory Conspiracy, Mail fraud, and Invasion of Privacy claims; and restated the Grand Larceny claim as Conversion of Chattels; and modified the False Imprisonment claim to False Arrest and Imprisonment; and added a Malicious

Prosecution claim; and retained the other remaining claims.

Petitioner Pravda alleges in his Complaint that on or about June 30, 1981, the Respondents formed a conspiracy, the purpose of which was, and continues to be, to coerce Frank Pravda into foregoing his civil rights to obtain plaintiff's family land for their use in full violation of due process of law, and to punish plaintiff for his refusal to submit to the objectives of the conspiracy, and to drive plaintiff from his home and community; and to defeat plaintiff in this action by hampering and obstructing his travels, and relentlessly pursuing the malicious prosecution of plaintiff; which has deprived him of his constitutional rights and injured him in his person and property. The Complaint alleges a pervasive government based conspiracy naming as defendants a Town councilman, jailkeepers, State Police officers, a Sheriff, a State Atorney

General, a State Government, a County Government, a Tax Assessor, a District Attorney, Sheriff's deputies, a Justice of the Peace, and other State and Local officials and a private citizen. Petitioner alleges that on June 30, 1981 he was approached as he was walking on Pravda land in the Town of Saratoga, New York by a tax assessor for the Town who challenged his right to be there; citing Town tax records. He was then seized by three conspirators and carried away onto adjoining Hall land where he was put in fear of imminent peril. After his release he immediately telephoned the New York State police for aid and was told immediate aid would come. When immediate aid did not come he then called the Sheriff's Department and was told immediate aid would come. No one from the Sheriff's Department ever came. A State police officer finally came and immediately embarked on a campaign to intimidate and coerce him to forego his rights by informing him that his rights to travel freely on Pravda land and anywhere near Hall land and to be secure in his person and property did not concern him, and taunted Frank Pravda to go ahead and write to the Governor of New York. Petitioner then sent a letter to the Governor regarding his experiences of June 30, 1981, and also sent a letter to the Attorney General of New York. The replies to his letter and visits to him by State Police officers were designed to cover up the conspiracy against him. Then on December 29, 1981, a conspirator and an accomplice robbed his chainsaw and within an hour he was falsely arrested and imprisoned at the Jail in Ballston Spa, New York where he was then subjected to numerous physical and mental torturous abuses by various conspirators. Various threats were made against him such as to remove or damage his sex organs in various sadistic ways; that they would kick his head in; that they would blow him away in a faked escape attempt; and others too numerous to mention here. Various conspirators then tortured him in various ways such as snapping his head back and forth; repeated picking him up and dropping him onto the floor; punching him in the spine, kicking his body; removing him from the cell and disrobing him and placing him into an ice cold shower; repeated calling him a "bastard polack"; and others too numerous to mention here. Then after he was released on bail a conspirator Deputy Sheriff put a scarf around Petitioner's neck while an unidentified co-conspirator held him and stated that he was the judge, jury, and hangman as he pulled the scarf painfully tight across his windpipe; and then further stated that he knew where Petitioner lived and would be around to see him. Thereafter Petitioner wrote a letter to the Governor about these happenings and did not receive a reply. Then on January 14,1982 he appeared as a defendant as ordered by conspirator Judge in the Town Court in the Town of Malta, New York; wherein the conspirator Judge permitted conspirator Prosecutor to act as Judge while he sat mute to Petitioner's questions. Then on July 15, 1982, in the Supreme Courtroom Number 1 at the Saratoga County Municipal Center in Ballston Spa, New York Petitioner was accosted by various agents of named government conspirators who expressed being double agents and threatened him with arrest on false charges. Then, outside the doorway of the Courtroom he was arrested by two sheriff's deputies and one of the agents from inside the courtroom who refused to show him the warrant which they claimed to be holding for his arrest. Then , he was taken to the Town of Saratoga Office Building before a Town Judge who demanded of him $500 cash or $2500 bond bail, and he thereafter personally gave him $500 cash, and was ordered to appear before the Judge on August 3, 1982, and when he subsequently appeared as ordered he was confronted by another Town of Saratoga Judge who was accompanied on the podium by one of the agents who had accosted him in the aforementioned incident in and outside of Supreme Courtroom Number 1, who together and in harmony angrily, and repeatedly demanded that he enter a plea, while he was seeking to determine the basis of the court's jurisdiction without avail. Thereafter, trial was set for September 7, 1982 and was vacated without notice by an agreement between Judge and Prosecutor. He had attempted to bring Motions before the court in anticipation of the scheduled trial and his notices went unanswered and when he arrived at the appointed time and place he found no one there. When he appeared as he was ordered in the Town of Saratoga Court on September 7,1982 a weird proceedings took place before the Town Judge who had issued his arrest warrant wherein he was given a document titled "Order for Psychiatric Examination " which accused him of being an idiot, imbecile and insane and which was signed by the Judge. Then trial was again set and soon thereafter vacated by the same agent who had appeared with the Judge on the podium as related above. Thereafter on December 15, 1982 he was placed on trial in repeated and numerous violations of his rights and a mistrial was granted early in that trial at the motion of the prosecutor, who was the same agent described earlier who had stood beside the same Judge who promptly granted the mistrial. Then on April 5, 1983 when he drove his car into his garage a car pulled up and a loudspeaker blared out his name and said that this was the State Police who only wanted to talk with him and soon thereafter made various threats such as that they would send in dogs to get him out; that they would break down the door. The foregoing are some of the facts of the numerous actions against him that have caused him to remain in constant fear for his life and wellbeing. Time and space does not permit reciting all the wrongs continuing to occur and that have occurred to harm him.

2. Proceedings Below

A. The District Court

Plaintiff filed suit on June 21, 1982. A total of twelve counts were made as more fully described heretofore. Various motions were filed by defendants seeking dismissal of the original complaint for failure to state a claim upon which relief can be granted, and to dismiss certain counts against certain defendants. Acting on various motions made by various defendants the Court dismissed Counts IV, V, XI, XII with prejudice; and dismissed Counts I, II, III, VI, VII, VIII, IX, X, with leave to replead upon a more particularized demonstration of the participation of each defendant in the acts alleged in the alleged conspiracy; and dismissed all claims for punitive damages against defendant County of Saratoga, N.Y.; and dismissed the action as to defendants State of New York, Cooper, Van Heusen, and Powers with prejudice. Then on December 1, 1983 plaintiff filed an amended complaint and various motions were then made by defendants seeking its dismissal for similar reasons advanced to dismiss the original pro se complaint. Acting on these motions the Court granted defendants Nichols and Town of Malta, N.Y.'s motion for judgment on the pleadings in all respects; and granted defendants John D. Hall, Jr., Wait, Chauvin, Bowen, and County of Saratoga,N.Y.'s motion for summary judgment in all respects; and granted defendants Robert Hall, Sr., John Hall, Sr., Dake, Hughes' motion for summary judgment with respect to plaintiff's claims arising under 42 U.S.C. § 1985; and dismissing the Amended Complaint as to defendants State of New York, Abrams, Cooper, Van Heusen, and Powers with prejudice.

B. The Court of Appeals

An appeal was taken from the district court's decision on the Amended Complaint pursuant to 28 U.S.C. § 1292, that was adverse to the Petitioner. The Court of Appeals held that the petitioner was not entitled to the relief sought in his amended complaint seeking an injunction against the defendants State of New York and District Attorney from prosecuting pending criminal charges against the petitioner until the civil action is completed; and that no stringent circumstances exist in this case to warrant exercise of pendent appellate jurisdiction to consider closely related rulings appropriate on appeal of the denial of a preliminary injunction; and that the order of the lower court had implied a denial of an injunction requested in the amended complaint.

I. REASONS FOR GRANTING THE WRIT

The Decisions of The Lower Courts In This Case Ignore the Facts That Warrant Injunctive Relief to Plaintiff

A. Police State Tactics Against Plaintiff.

Tyrannical Police State tactics against a plaintiff in Federal Court by powerful defendant governments, government based defendants, and their police and non-police operatives as being beyond Federal Court jurisdiction is an important question of Federal Law which has not been settled by this Court.

Police lawlessness directed against Petitioner in various States described briefly in his complaints; See Appendix pp. 44a, 81a, 112a-115a, 119a, 126a-131a, 138a-139a, 150a-151a, 159a-160a, 178a-182a, 199a-203a; taking place relentlessly and continuing, demonstrates the need for immediate injunctive relief since the top state officials contributed to this lawlessness and failed to act speedily and decisively to stop them after repeated notification by their victim, and thus have de facto sentenced Petitioner to death by Police Torment at the behest of governments, government based conspirators and their operatives. Such police activity is not a convention of the Constitution.

Police State tactics have been and are a significant and integral part of the tyrannical pervasive government based conspiracies against the Petitioner; without which they would have lacked much of their power and dimensions. The courts below have implied by their rulings that police lawlessness is not only tolerable but uncontrollable because of State's rights and immunities; See. App. pp. 1a-14a, 17a-23a, 32a-36a, These rulings are an absurdity in light of our Constitution and the Civil Rights Acts. See. Kush v. Rutledge, ____ U.S. ____, 75 L Ed 2d 413, 103 S Ct _____ (1983); Scott v. Dixon, 720 F.2d 1542 (1983), Eleventh Circuit; Keating v. Carey, 706 F.2d 377 (1983) at 385, Second Circuit; Harbulak v. County of Suffolk, 654 F.2d 194, (1981), Second Circuit; Allee v. Medrano, 416 U.S. 802, 40 L Ed 2d 566, 94 S Ct 2191 (1974); Mitchum v. Foster, 407 U.S. 225, (1972); Hall v. United States, 459 F.2d 831 (1972), District of Columbia Circuit.

Today, Police are being misled to believe that lawlessness is part of their rights. See. Law and Order, Volume 32, No.2, February, 1984, pp 48-49; wherein it is stated that "...police are decision makers ... and in spite of Supreme Court decisions aimed at controlling their 'unfettered exercises of discretion' ... they select which suspect will become a convict and which will not." These are the attitudes which police states thrive on, and which caused police to become and remain such an integral part of the conspiracies against the Petitioner.

Petitioner alleges that more recently, in the fall of 1983, minutes after he entered a public law library in the State of Delaware the fire alarm in the library sounded, and as he traveled on a highway in Delaware a group of police cars engaged in a menacing "weaving maneuvers about his vehicle, and then when he entered a law library in Flemington, New Jersey he was followed by a policeman into the library, and on his next visit to the same library an armed policeman was sitting in place of the librarian. These police activities and others directed at the Petitioner have hampered him repeatedly from a fair chance to prosecute the instant action as well as having defeated him in his action involving a Nebraska based conspiracy against him. Such police activities are an insult to the dignity of man and a rational and civilized society, and Petitioner clearly needs injunctive relief from such pervasive activities that deny him fair and equal access to the system of justice and that continue to serve the conspiracies against him by injuring him in his person and property. These wrongful activities of the police violate his Ninth Amendment right to privacy. See. App. pp 248a.

B. Substantial Injury to Plaintiff Flowing From Continuing Pervasive Government Based Conspiracies.

Petitioner has included in the Appendix pp 164a-222a significant parts of his complaint alleging a strikingly similar conspiracy against him to injure him in his person and property and violate his constitutional rights; to show his irreparable injury flowing from a similar government based conspiracy and demonstrating how tyrannical Police State tactics can spawn and pervade all sections of government as a conspiracy develops and grows.

The courts below would expect Petitioner to survive relentless Tyranny because they have a preconceived notion, evidenced by their partiality to defendant conspirators, that tyranny cannot and does not exist in this country. Judge Miner implied his view that police lawlessness against Petitioner is permissable as long as "Police officers don't stop you in Federal Court,.." See. App. pp. 235a. Thereafter, Judge Warren K. Urbom could not find that "... any of the allegations describe 'extreme and outrageous conduct'...". See. App. 98a-99a. These attitudes and resulting rulings have and continue to cause irreparable injury to Petitioner. See. App. pp. 164a-222a, 223a-236a, 100a-101a, 90a-99a, 88a-89a, 244a-245a, 237a-243a, 15a-16a, 83a-87a.

A common denominator between the conspiracies directed against Petitioner is their use of Police to disrupt and defeat him in his court actions; which has caused serious damage to his health and attempts to recover.

II. The Lower Courts' Decisions Defeat The Statutory Purposes by Categorically Ignoring and Denying Appropriate Injunctive Relief to Plaintiff.

Petitioner has already described how great, immediate, and irreparable loss of his constitutional rights have and continue to occur flowing from a government based conspiracy rooted in Nebraska as well as a government based conspiracy rooted in New York State; each involving unconstitutional actions directed against his person and property under color of state laws. In light of these facts the findings of the Second Circuit clearly violated the principles enumerated in Mitchum, supra, at 242;

and flies in the face of their own recent earlier rulings. See. Port Authority Police Benevolent Association v. Port Authority, 698 F.2d 150 (1983), Second Circuit; Keating v. Carey, 706 F.2d 377 (1983), Second Circuit, at 385.

III. The Decisions of The Lower Courts Show Unfair Partiality In Favor of Defendants.

The rulings below have the effect of declaring that the supercolossal system of justice is not suited to being fair with the lone, single, victim of pervasive government based continuing wicked conspiracies nurtured by an unlimited supply of public funds and resources to inflict endless wrongs on the Petitioner.

Federal Judge Miner was assigned to both of Petitioner's cases relating to a Nebraska based conspiracy and the instant action. In a hearing held in Federal District Court in

Albany, New York on July 16, 1982, Judge Miner refused to grant Frank Pravda the right to set the record straight so that the Court could make a rational decision, See. App. pp. 223a-236a; and repeatedly demonstrated partiality towards defendants and their representative. Both Federal Judge Miner and Federal Judge Urbom (District of Nebraska) violated the mandate of Article VI of the Constitution which states in part:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

These and other judges were unwilling to uphold the constitutional rights of

Petitioner by departing from accepted and usual courses of judicial proceedings and de facto denying him fair and equal access to the system of justice. See. App. pp. 1a-255a. In characteristic Totalitarian fashion the conspirators accused Petitioner of being an Idiot, Imbecile, or Insane, See. App. pp. 79a-80a, for his efforts to resist their oppressive activities against him, and Petitioner informed Federal Judge Miner of this fact and he was duty bound to intervene to preserve the jurisdiction of the Federal Court but he did not do so. The use of Psychiatrists to penetrate the "right to remain silent" shield after conspirators had failed to do so using Torture demonstrates the pervasive violation of Petitioners rights by any and all means. Town of Saratoga Teacher-Judge Hutzky told Petitioner "...I'm Sane..." and then proceeded to place him on trial without benefit of counsel or witnesses in his behalf as he had demanded.

IV. The Decisions of The Lower Courts In This Case Are In Direct Conflict With The Decisions of This Court on the Issues.

The Lower Courts have repeatedly categorically denied Petitioner any form of injuctive relief despite his allegations and showing that he has and continues to sustain immediate and irreparable injury from the conspiracies and conspirators activities against him. Supra.

The Second Circuit has ruled that "If the criminal charges are no longer pending, then the request for an injunction is moot." See. App. p. 4a; in ruling on Petitioner's request for a preliminary injunction. See. App. pp. 162a-163a. This decision is in direct conflict with this Court's ruling in Allee v. Medrano, 416 US 802, 40 L Ed 2d 566, 94 S Ct 2191 . The District Court gave no direct ruling on Petitioner's demand for a preliminary injunction, and apparently ignored this Court's mandate expressed in Mitchum v. Foster, 407 U.S. 225 (1972); as did the Second Circuit. The refusal to grant Petitioner injunctive relief clearly conflicts with this Court's ruling in Kush v. Rutledge, _____US _____, 75 L Ed 2d 413, 103 S Ct ____, (1983)

V. The Lower Courts' Decisions De Facto Grant License to The Defendants to Continue Their Wrongful Acts Against Plaintiff; While Plaintiff Has No Viable Alternate Avenue For Relief in View of The Pervasive Nature of The Conspiracies Against Him.

The decisions of the Courts below violate fundamental principles of fairness and justice and de facto give license to tyranny and inhumane treatment of persons. Hounding a person to death because he is a plaintiff in Federal Court is not the American Way - It is the way of Tyranny, and has no rightful place in our scheme of things. The actions of defendants and their operatives have shackled the prosecution of this action and the courts below refuse to remove those shackles with appropriate injunctive relief: as expressed in their orders and failures to act in the face and on knowledge of the continuing conspiracy, and have foreclosed any other avenue of relief at this time. See. App. pp. 1a-6a, 13a-14a.

The Petitioner's defeat by the system in the territory of Nebraska is submitted here to show how the Federal Courts ignored plaintiff's urgent need for injunctive relief - how they ignored the facts of obstruction of justice that became apparent during the proceedings. The Courts repeatedly distorted the facts; ignored the truth, showed favor for the defendants, and thus granted license to government based conspiracies. Thus the Courts partook in a coverup of corruption of the most repugnant kind-Attorneys appearing under the banner "Department of Justice" lying to the Court to shield Corruption. See. App. pp. 83a-101a, 164a-236a; while recent events in Nebraska speak of the folly of such activity.

The Courts below are not that naive to believe that they must not enjoin any prosecution that any State may wish to undertake. When it comes to issues of human rights and inhumane treatment of their fellow citizens it is too easy for judges sitting in high places to feel as Judge Urbom did in his appraisal of the merits of Petitioner's complaint when he stated that none of the allegations describe extreme and outrageous conduct. See. App. pp. 98a-99a, 164a-222a.

A collateral issue apparent on the record is whether New York State Criminal Procedure Law is unconstitutionally vague with respect to a viable procedure for securing the attendance of witnesses for a pro se defendant. See. App. pp. 49a-51a.

One of the basic purposes of the rule against interference with pending prosecutions is to avoid a mockery of justice; while interference is mandated to prevent a mockery of justice. At Petitioner's trial prosecutor Scarano stated to Judge Hutzky "We are turning this into a circus". See. App. p. 72a.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

Frank Pravda

Frank Pravda, Petitioner
General Delivery
Flemington, New Jersey 08822

APPENDIX

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Filed: October 19, 1984

NO. 84-7370

FRANK PRAVDA,

Plaintiff-Appellant,

v.

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF N.Y.,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., and EDWARD POWERS,

Defendants-Appellees.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the nineteenth day of October one thousand nine hundred and eighty-four.

Present: HONORABLE JON O. NEWMAN,
HONORABLE RICHARD J. CARDAMONE,
Circuit Judges.

HONORABLE OSCAR H. DAVIS,*
Circuit Judge.

*Of the United States Court of Appeals for the Federal Circuit, sitting by designation.

- -

Frank Pravda appeals from an order of the District Court for the Northern District of New York (Roger J. Miner, Judge), entered March 26,1984, in his suit against various governmental entities, government officials, and private citizens. The order dismissed all claims against defendants Town of Malta, County of Saratoga, and Nichols, John D.

Hall, Jr., Wait, Chauvin, and Bowen, and dismissed claims under 42 U.S.C. § 1985 against defendants Robert Hall, Sr., John Hall, Sr., Dake, and Hughes. The order denied dismissal of other claims against the last four named defendants, and these claims remain pending.

Appellant apparently believes the order is appealable because his complaint sought, in addition to damages, a preliminary injunction barring the State of New York and the District Attorney of Saratoga County from prosecuting pending criminal charges against appellant until resolution of the civil suit. Appellant cites 28 U.S.C. § 1292(a)(1), presumably as the basis for appellate jurisdiction.

It is not clear that the District Judge was ever asked to consider the complaint's request for a preliminary injunction. However, to the extent that the

March 26,1984, order dismisses all claims against the County of Saratoga, it may be viewed as implicitly denying an injunction against pending criminal charges (assuming, which is not clear, that the charges still remain pending). If the charges are pending, the injunction was properly refused since it would be an unwarranted federal court inference with a state criminal prosecution. *Younger v. Harris*, 401 U.S. 37 (1971). If the criminal charges are no longer pending, then the request for an injunction is moot. In either event, the injunction was properly denied.

That denial, however, does not entitl appellant to seek review at this time of th dismissal of his damage claims against some of the defendants he sued, nor of the dismissal of his claims based on section 1985 against the remaining defendants. Since the March 26, 1984, order does not dismiss all claims against all defendants, it may not be reviewed now in the absence of entry of a final judgment pursuant to Fed. R. Civ. P. 54(b). Quite properly, the District Judge has made no Rule 54(b) certification in this case. Though appeal of the denial of a preliminary injunction can in some "stringent" circumstances warrant exercise of pendent appellate jurisdiction to consider closely related rulings, _see Port Authority Police Benevolent Ass'n v. Port Authority_, 698 F.2d 150, 153 (2d Cir. 1983), there is no basis for doing so in this case. The March 26 order will be reviewable when a final judgment is entered resolving the entire lawsuit.

Accordingly, the order of March 26, 1984, is affirmed to the extent that it denies an injunction; as to all other aspects of the order, the appeal is dismissed for lack of appellate jurisdiction.

Since appellees wasted their time briefing the merits, instead of moving to dismiss for lack of appellate jurisdiction, no costs will be allowed on this appeal to either side.

/s/ Jon O. Newman

/s/ Richard J. Cardamone

/s/ Oscar H. Davis
Circuit Judges

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: March 26, 1984

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J. J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G. B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., and EDWARD POWERS,

Defendants.

ORDER

Defendants Robert Hall, Sr., John Hall, Sr., John D. Hall, Jr., Fred Dake (sued as Jack Dake), David A. Wait, Robert

Chauvin, James Bowen, Howard Hughes (sued as Max Hughes), and the County of Saratoga, all have moved this Court for an order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing plaintiff's complaint against them for failure to state a claim upon which relief can be granted, or, in the alternative, for summary judgment pursuant to Fed. R. Civ. P. 56(b). Defendants Town of Malta and James R. Nichols, Sr. have moved this Court for an order granting them judgment on the pleadings, Fed. R. Civ. P. 12(c).

After careful review of all the papers submitted with respect to these various motions, including plaintiff's affidavit and briefs in opposition thereto, and having heard the arguments of counsel for defendants in open court on March 16, 1984, and plaintiff not having appeared, it is

ORDERED, that the motion of defendants Nichols and Town of Malta for judgment on the pleadings is granted in all respects. The amended complaint fails to state a claim upon which relief can be granted as to Judge Nichols, since he is afforded absolute judicial immunity, see Stump v. Sparkman, 435 U.S. 349, 356-57 (1958), and the doctrine of respondeat superior is not available in this § 1983 action as a basis for imposing liability on the Town of Malta, see Monell v. Department of Social Services of the City of New York, 436 U.S. 658, 694 (1978), and it is further

ORDERED, that the motion of defendant John D. Hall, Jr. for summary judgment is granted in all respects, since his actions were not taken under color of state law, see Parratt v. Taylor, 451 U.S. 527, 535 (1981), and since the allegations of a conspiracy are only vague and conclusory, see Angola v. Civiletti, 666 F.2d 1, 4 (2d Cir. 1981), and since plaintiff is not a member of a protected class for purposes of 42

U.S.C. § 1985, _see_ _United Brotherhood of Carpenters and Joiners of America, Local 610 v. Scott_, 51 U.S.L.W. 5173 (1983), and it is further

ORDERED, that the motion of defendant Robert Hall, Sr. and John Hall, Sr. for summary judgment is granted with respect to plaintiff's claims arising under 42 U.S.C. § 1985, since the allegations of conspiracy are only vague and conclusory, _see_ _Angola v. Civiletti_, 666 F.2d at 4, and since plaintiff is not a member of a class protected under that section, _see_ _Carpenter v. Scott_, 51 U.S.L.W. 5173, and it is further

ORDERED, that the motion of defendant John Hall Sr. and Robert Hall, Sr. for summary judgment is denied with respect to all claims arising under 42 U.S.C. § 1983 and all pendent state law claims, and it is further

ORDERED, that the motion of defendant

Wait, Chauvin, Bowen and County of Saratoga for summary judgment is granted in all respects, since the complaint fails properly to plead a conspiracy with respect to these defendants under 42 U.S.C. § 1985, see Angola v. Civiletti, 666 F.2d at 4, and since no personal involvement has been alleged with respect to defendants Bowen and Wait, see McKinnon v. Patterson, 568 F.2d 930, 934 (2d Cir. 1977), cert. denied, 434 U.S. 1087 (1978), and since respondeat superior is unavailable as a basis for liability, see Monell v. Department of Social Services of the City of New York, 436 U.S. 658, 694 (1978), and since defendant Chauvin is afforded absolute immunity for actions taken in his prosecutorial capacity, Imbler v. Pachtman, 424 U.S. 409 (1976), and it is further

ORDERED, that the motion of defendants Dake and Hughes for summary judgment is granted with respect to plaintiff's claims arising under 42 U.S.C. § 1985, since plaintiff has failed adequately to plead a conspiracy, *see* *Angola v. Civiletti*, 666 F. 2d at 4, and since plaintiff is not a member of a protected class under that section, *see* *Carpenters v. Scott*, 51 U.S.L. W. 5173, and it is further

ORDERED, that the motion of defendants Dake and Hughes for summary judgment is denied in all other respects.

Dated: March 23,1984
Albany, New York

/s/ Roger J. Miner
U.S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Filed: August 6, 1984

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff-Appellant,

-against-

ROBERT HALL, FRED DAKE, ROBERT ABRAMS,
JAMES R. NICHOLS, SR., JOHN D. HALL, JR.,
J.J. BARGOUR, DAVID A. WAIT, HOWARD HUGHES,
AND JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., AND EDWARD POWERS,

Defendant-Appellees.

ORDER

A motion having been made by the plaintiff, herein, FRANK PRAVDA, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, Now, on reading and filing the Notice of Motion (undated), the Motion to Amend Order to Permit Appeal, dated July 9, 1984 and, the Memorandum of Points and Authorities in Support of Motion to Amend Order to Permit Appeal, in support of said motion, and the affidavit of ROBERT K. RUSLANDER, sworn to July 20, 1984 in opposition thereto, and this matter having come on to be heard at a Motion Term of this Court on the 27th day of July, 1984 and AINSWORTH, SULLIVAN, TRACY & KNAUF, ROBERT K. RUSLANDER of counsel, having appeared in opposition thereto, and plaintiff having failed to appear and due deliberation being had thereon, it is hereby

ORDERED that the plaintiff's motion be and the same hereby is denied in all respects.

DATED: Aug. 3,1984

s/ Roger J. Miner

U S D J

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: February 3, 1984

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., and EDWARD POWERS,

Defendants.

ORDER

The plaintiff's attorney, ROLF ONDECK RONNING, ESQ., having moved this Court for an order to withdraw as plaintiff's counsel in the above entitled action, upon careful and due deliberation of all profferred papers and exhibits, and upon hearing oral argument in open court on the 20th day of January, 1984, upon due deliberation, it is

ORDERED, that the motion of ROLF ONDECK RONNING, ESQ. be granted and that ROLF ONDECK RONNING be permitted leave to withdraw as attorney; and it is further

ORDERED, that a copy of this Order be served on plaintiff, FRANK PRAVDA, by certified mail; and it is further

ORDERED, that all proceedings in this action shall be stayed for a period of thirty (30) days from the date this order is served upon plaintiff, in order to afford plaintiff the opportunity to secure new counsel or to indicate to the Court that he will proceed pro se.

Dated: Albany, New York

Feb 1, 1984

ENTER

/s/ Roger J. Miner
U.S. District Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: January 25, 1984

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y. and EDWARD POWERS,

Defendants.

ORDER

BEFORE: HONORABLE ROGER J. MINER,
UNITED STATES DISTRICT JUDGE

UPON reading and filing the notice of

motion and motion to dismiss the amended complaint, with supporting affidavit, dated December 8, 1983, submitted on behalf of the defendants State of New York, Robert Abrams, Joseph Cooper, Gary Van Heusen, and Edward Powers; the affidavit in opposition to the motion to dismiss, dated January 6, 1984; a review of the amended complaint and all other documents filed in this matter; and upon consideration of the oral argument by counsel for the plaintiff and the moving defendants on January 20, 1984, the Court finds that the amended complaint fails to state a claim upon which relief can be granted as against the moving defendants, under 42 USC §§ 1983 or 1985, and that it fails to state a claim upon which relief can be granted under any provision of statutory or constitutional law; and it is hereby

ORDERED, that the amended complaint be dismissed with prejudice pursuant to Rule

12(b)(6) of the Federal Rules of Civil Procedure, insofar as it purports to state a claim against the State of New York, Robert Abrams, Joseph Cooper, Gary B. Van Heusen, and Edward Powers.

Dated: Albany, New York
January 24, 1984

ENTER:

/s/ Roger J. Miner

Honorable Roger J. Miner
United States District Court
Northern District of New York

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Filed: November 3, 1983

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y. and EDWARD POWERS,

Defendants.

ORDER

This matter is before this Court on a motion to dismiss dated July 25, 1983, submitted on behalf of the State of New York, Robert Abrams, Joseph Cooper, Gary B. Van Heusen, and Edward Powers. This is the third motion to dismiss which has been filed by various defendants in this action. In orders filed November 18, 1982 and August 2, 1983 this Court issued orders granting these motions in several respects. The order of August 2, 1983 dismissed every count of the complaint as against defendants Town of Malta and Town Justice Nichols; with respect to the plaintiff's purported claims pursuant to 42 USC §§ 1983 and 1985 , and the pendent claims for assault, battery, false imprisonment, invasion of privacy and the intentional infliction of emotional distress, dismissal of such claims was without prejudice, and with leave for the plaintiff to file an amended complaint. No amended complaint has been filed to date.

Upon reading and filing the notice of

motion and motion to dismiss, with supporting affidavit dated July 25, 1983, submitted on behalf of State of New York, Robert Abrams, Joseph Cooper, Gary B. Van Heusen, and Edward Powers; the affidavit and memorandum of law in opposition thereto, dated October 14, 1983, a review of the complaint and all other documents which have been filed in this matter, it is

ORDERED that the complaint be dismissed with prejudice, insofar as it purports to state a claim against State of New York; it is

ORDERED that the complaint be dismissed without prejudice insofar as it purports to state a claim against Robert Abrams, Joseph Cooper, Gary B. Van Heusen, and Edward Powers; it is

ORDERED that the plaintiff be permitted leave to file an amended complaint, consistent with the mandate of Rule 11 of the

Federal Rules of Civil Procedure, within 30 days of the date of this order; and it is

ORDERED that in the event that the plaintiff fails to timely file such amended complaint, this action shall be dismissed in its entirety with prejudice.

Dated: Albany, New York
Nov. 3, 1983

ENTER

/s/ Roger J. Miner

J. S. C.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Filed: August 3, 1983

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y. and EDWARD POWERS,

Defendants.

ORDER

Defendants Town of Malta and Town Justice Nichols move this Court to dismiss the complaint for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). Upon careful and due consideration of all proffered papers and exhibits, and upon hearing oral argument in open court on the 22nd day of July, 1983, it is

ORDERED, that Count IV of the complaint, entitled "Statutory Conspiracy," N.Y. Penal Code § 105; Count V of the complaint, entitled "Violation of 18 U.S.C. § 1341, relating to mail fraud; and Count XI of the complaint entitled "Grand Larceny" are dismissed with prejudice, Cort v. Ash, 422 U.S. 66 (1975); Ryan v. Ohio Edison Co., 611 F.2d 1170 (6th Cir. 1979); and it is further

ORDERED, that Count XII of the complaint , entitled "Torture," is dismissed with prejudice as redundant of other claims pleaded in the complaint, and it is further

ORDERED, that the claims pleaded in the complaint predicated upon 42 U.S.C. § 1985(3) (Count I), 42 U.S.C. § 1985(2)

(Count II), 42 U.S.C. § 1983 (Count III), and the pendent state claims entitled "Assault" (Count VI), "Battery" (Count VII), "False Imprisonment" (Count VIII), "Invasion of Privacy" (Count IX) and "Intentional Infliction of Emotional Distress" (Count X), all are dismissed, with leave to replead upon a more particularized demonstration of the participation of each defendant in the acts alleged and in the alleged conspiracy, Angola V. Civiletti, 666 F.2d 1, 2 (2d Cir. 1981); Taylor v. Mayone, 626 F.2d 247, 250 (2d Cir. 1980); Owens v. Haas, 601 F.2d 1242, 1246 (2d Cir. 1979); Welfare Rights Organization Day Care Center, Inc. v. Schreck, 463 F.2d 620 (2d Cir. 1972); Fed. R. Civ. P. 8.

Dated: August 2,1983
Albany, New York

/s/ Roger J. Miner
U. S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: February 1, 1983

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., AND EDWARD POWERS,

Defendants.

ORDER

The defendants, James Nichols, Sr. and Town of Malta, N.Y., having moved this Court for permission to served an amended answer, and on motion of Grogan, Heggen & Steenburg, P.C., (David H. Pentkowski, of counsel) having appeared in support of said motion, and there having been no opposition thereto, it is

ORDERED, that the motion of the defendants James R. Nichols, Sr. and Town of Malta, N.Y., for leave to serve an amended answer hereby is granted, and it is further,

ORDERED, that defendants, James R. Nichols, Sr. and Town of Malta, N.Y. are hereby directed to make service of said amended answer.

Dated: Feb 1, 1983

ENTER:

/s/ Roger J. Miner

JUDGE ROGER J. MINER

U.S. District Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: January 18, 1983

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y. AND EDWARD POWERS,

Defendants.

ORDER

The defendants, Robert Hall, Sr. and John D. Hall, Jr., having moved for judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, dismissing individual claims for relief under plaintiff's Counts IV, V and IX for failure to state a claim upon which relief can be granted, and on motion of McMahon and McMahon, P.C., (Peter L. Coseo, Esq., of Counsel having appeared in support of said Motion), and the Court having heard the argument of counsel and being fully advised, it is

ORDERED, that the defendants' Motion to Dismiss COUNT IV, Statutory Conspiracy under Section 105 of the Penal Law of the State of New York, for failure to state a claim upon which relief can be granted, be granted as to defendants, Robert Hall, Sr. and John D. Hall, Jr., and that COUNT IV be dismissed, as to the above-named defendants, and it is further

ORDERED, that the defendants' Motion to Dismiss COUNT V, a violation of 18 USC 1341, for failure to state a claim upon which relief can be granted, be granted as to the defendants, Robert Hall, Sr. and John D. Hall, Jr., and that COUNT V be dismissed as to the above-named defendants, and it is further

ORDERED, that the defendants' Motion to Dismiss COUNT IX, Invasion of Privacy, be granted and COUNT IX be dismissed as to defendants, Robert Hall, Sr. and John D. Hall, Jr.

Dated: January 18, 1983

Enter.

/s/ Roger J. Miner

Judge Roger J. Miner

U.S. District Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: November 18, 1982

NO. 82-CV-635

FRANK PRAVDA,
Plaintiff,
-against-
ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., and EDWARD POWERS,
Defendants.

ORDER

The defendants, FRED DAKE, sued as JACK DAKE, DAVID A. WAIT, ROBERT CHAUVIN, COUNTY OF SARATOGA, NEW YORK and JAMES BOWEN, having moved to dismiss the

Complaint herein on the grounds that it fails to state a claim upon which relief can be granted, and for lack of jurisdiction of the subject matter, and on Motion of AINSWORTH, SULLIVAN, TRACY & KNAUF, (Robert K. Ruslander, Esq., of Counsel) having appeared in support of said Motion, and the Court having heard the argument of counsel and being fully advised, it is,

ORDERED, that the defendants' Motion to Dismiss COUNT I, a Conspiracy under 42 USC 1985(3) because the Complaint fails to state a claim upon which relief can be granted, be granted as to defendant, COUNTY OF SARATOGA, and denied as to defendants, DAKE, WAIT, CHAUVIN and BOWEN, and that COUNT I be dismissed as to defendant, COUNTY OF SARATOGA, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT II, a Conspiracy under 42 USC 1985(2) because the Complaint fails to state a claim upon which relief can be granted, be granted as to defendant, COUNTY OF SARATOGA, and denied as to defendants, DAKE, WAIT, CHAUVIN and BOWEN, and that COUNT II be dismissed as to defendant COUNTY OF SARATOGA, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT III, a violation of 42 USC 1983, and Amendments IV, V, VI, VIII, and XIV of the United States Constitution, is denied in all respects, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT IV, Statutory Conspiracy under Section 105 of the Penal Law of the State of New York, for failure to state a claim upon which relief can be granted, be granted as to defendants, DAKE, WAIT, CHAUVIN, COUNTY OF SARATOGA, and BOWEN, and that COUNT IV be dismissed, as to the above-named defendants, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT V, a violation of 18 USC 1314, for failure to state a claim upon which relief can be granted, be granted as to defendants, DAKE, WAIT, CHAUVIN, COUNTY OF SARATOGA, and BOWEN, and that COUNT V be dismissed as to the above-named defendants, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT VI, Assault, be denied in all respects, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT VII, Battery, be denied in all respects, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT VIII, False Imprisonment, be denied in all respects, and it is further,

ORDERED, that the defendants' Motion to Dismiss COUNT IX, Invasion of Privacy, be granted and COUNT IX be dismissed as to defendants, DAKE, WAIT, CHAUVIN, COUNTY OF SARATOGA, and BOWEN, and it is further,

ORDERED, that defendants' Motion to Dismiss COUNT X, Intentional Infliction of

Emotional Distress, be denied in all respects, and it is further,

ORDERED, that defendants' Motion to Dismiss COUNT XI, Grand Larceny, for failure to state a claim upon which relief can be granted, be denied in all respects, and it is further,

ORDERED, that defendants' Motion to Dismiss COUNT XII, Torture, be denied in all respects, and it is further,

ORDERED, that defendants' Motion to Dismiss plaintiff's claims for punitive damages against defendant, COUNTY OF SARATOGA, be granted and all claims for punitive damages against defendant, COUNTY OF SARATOGA, be dismissed.

DATED: Nov 18, 1982

ENTER:

/s/ Roger J. Miner
JUDGE ROGER J. MINER
U. S. District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Filed: September 7, 1982

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y. and EDWARD POWERS,

Defendants.

ORDER

The defendants; FRED DAKE, sued as JACK DAKE, DAVID A. WAIT, ROBERT CHAUVIN, COUNTY OF SARATOGA, NEW YORK and JAMES

BOWEN having moved to extend the time within which said defendants may answer or otherwise move with respect to the complaint until October 4, 1982, and on motion of AINSWORTH, SULLIVAN, TRACY & KNAUF, ROBERT K. RUSLANDER, ESQ. of counsel, having appeared in support of said motion, and there being no opposition thereto, upon due deliberation, it is

ORDERED, that said defendants' motion be granted, and it is further

ORDERED, that said defendants' time within which to answer or otherwise move with respect to said complaint is extended until October 4, 1982.

Dated: Sept. 7,1982
Albany, N.Y.

/s/ Roger Miner

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Filed: August 6, 1982

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., et al

Defendants.

LETTER

CHAMBERS OF
Judge Roger J. Miner August 6,1982

Hon. Robert Abrams
New York State Attorney General
Department of Law
The Capitol
Albany, New York 12224
ATTN: Ellen Lacy Messina
Assistant Attorney General

Re: Pravda v. Robert Hall, Sr., et al
82-CV-635

Dear Ms. Messina:

As requested in your letter of August 4, 1982, you are hereby granted a 30-day extension of time within which to respond to the complaint in the captioned matter.

Yours very truly,
/s/ Roger J. Miner
Roger J. Miner

RJM:bmw

cc: Hon. Joseph R. Scully
Mr. Frank Pravda
Route 1, Box 150
Stillwater, New York 12170

STATE OF NEW YORK

COUNTY OF SARATOGA TOWN OF SARATOGA

Not Dated or Filed

THE PEOPLE OF THE STATE OF NEW YORK

-against-

FRANK PRAVDA,

Defendant.

TRANSCRIPT

Stenographic minutes of the above matter held before Hon. Paul Hutzky, town justice at the Saratoga town hall, Saratoga County, on December 15, 1982 at approximately 6 p.m.

* * * *

(2) THE COURT: Mr. Pravda, step forward please. Here is the list of jurors that I have selected, okay?

MR. PRAVDA: I requested this last week. How come I got it so late?

THE COURT: Because I have twenty names here and we will draw out of the box at the time --

MR. PRAVDA: ... I never witnessed this drawing of twenty names, did I? I object to that.

THE COURT: When you were here, we told you what we had done, okay, and you agreed at that time.

MR. PRAVDA: No, I didn't agree to anything of that sort.

* * * *

(Whereupon the Court, Mr. Scarano and Mr. Pravda retired to chambers.)

(3) MR. PRAVDA: I made a motion titled Motion For Evidentiary Hearing to Determine Whether Defendant Was Denied Rights to a Speedy Trial.

* * * *

(4) . . . This motion is made upon all the papers and procedings had heretofore and duly verified affadavit of Frank Pravda submitted previously.

MR. SCARANO: It has been, any delay was not caused by the People, but was caused by Defendant and I oppose the motion and take the position that there aren't facts sufficient to warrant this type of an evidentiary hearing.

THE COURT: Motion was denied.

* * * *

(5) MR. SCARANO: I believe the Court made efforts to contact --

THE COURT: Yes, the Court was contacted by Judge Nichols, Town of Malta, and informed me that he had been, Mr. Pravda had been arraigned before him and that he was brought back and then told to appear the following Thursday in the Town of Saratoga court by Judge Nichols. Mr. Pravda did not appear. I tried calling Mr. Pravda several times. I called and got hold of his brother, I assume, let's put it this way. I don't know and told him to have Mr. Pravda contact me immediately. A period of time elapsed and there was no contact from Mr. Pravda. I tried again when it was called to my attention by the D.A. that this case was still pending and that Mr. Pravda had not appeared and bail had been set for $100 at that time. I then issued a warrant for Mr. Pravda and setting bail at $500, which he was arrested in the County Complex and refused at that time before the D. A. and deputies, to appear voluntarily; is that (6) correct?

MR. SCARANO: I was there, yes.

MR. PRAVDA: Now I object. This statement is strictly based on one witness and I make a motion that George Pravda be brought in to testify to whether he received this phone call and I make a motion that you prove that, prove that you were acting on behalf of the People or the Court, whichever, and that you prove, having made that statement, that you did indeed make an effort on the telephone to contact the Defendant. A mere telephone call is not due process of law in my judgment because you do not have no guarantee who was answering that phone on the other end.

MR. SCARANO: All right. I would ask you to rule on that motion, whether it is denied or granted.

THE COURT: It would be denied.

MR. SCARANO: Okay. Can we get on to the next motion, Mr. Pravda?

MR. PRAVDA: Which motion are you speaking of?

MR. SCARANO: If you have got another one.

MR. PRAVDA: I made a motion that George Pravda --

MR. SCARANO: The judge denied it.

* * * *

(7) . . . You have a standing objection to anything that occurs this evening, Mr. Pravda.

MR. PRAVDA: I object to that statement. What do you mean, a standing --

MR. SCARANO: It is understood.

MR. PRAVDA: Are you a sooth-sayer? Are you a fortune teller as to what is going to occur?

* * * *

(9) MR. SCARANO: There is no need to object. You are appearing on your own. You are appearing pro se.

. . . MR. PRAVDA: Judge Hutzky told me, "You will appear pro se when I say you will appear pro se." That is the quote. Do you recall that statement, Judge Hutzky?

THE COURT: No.

* * * *

(10) . . . Mr. Pravda -- Clerk, I said that at that time I would consider you to defend yourself if I had a psychiatric report, okay, which --

MR. PRAVDA: No, okay, I don't agree with that.

MR. SCARANO: Let me be heard. I think the record should just indicate that the Court issued an order to Mr. Pravda directing him to appear at the Saratoga County Mental Health Clinic for a psychiatric examination and that he refused to comply with that order....

* * * *

(11) MR. PRAVDA: You brought up psychiatric examination. You are the one that brought that up, I didn't.

MR. SCARANO: Do you have any other motions?

THE COURT: Do you have any other motions?

MR. PRAVDA: I would like to insert into the record that at the time this psychiatric examination, and after I received the order, the Court proceeded in, how can I word that, in ignoring its own order to; let me recall the specific statement now; to to consider, to continue the proceedings while the order had stated all proceedings are stayed pending this examination and yet (12) the proceedings continued and Defendant had no choice in that matter. He had to continue to discuss the matter. In fact, the Court proceeded to hear the motion to dismiss that the Defendant had submitted, proceeded to hear arguments from the Defendant and in that same proceedings, the Court first denied the motion, then denied the denial, and then proceeded to hear the arguments again and then the Court finally denied the motion to dismiss. Typical kangaroo court tactics and the only intent of that was to humiliate and insult the Defendant.

MR. SCARANO: Do you have any other motions?

MR. PRAVDA: Yes. I made a, I wrote a letter on December 1, 1982 to the Saratoga court to the clerk of the court of the Town of Saratoga court, requesting a copy of the jury list. A copy of the rules of the court. Scheduled date and time and place where the prospective jurors for the case shall be rawn and this request was never fulfilled.

MR. SCARANO: Okay. I would take the osition that it was discussed the last time Mr. Pravda was here as to when the jury list would be drawn.

THE COURT: Right.

13) MR. PRAVDA: I object. That was not iscussed.

MR. SCARANO: Okay. What were the ther things you just demanded? That it is ot the duty of the Court to supply Defendant with a copy of the rules of the Court. hey are a matter of public record and that he date and time and place, well, yes --

THE COURT: We established that.

MR. SCARANO: Yes, and that everything as been complied with that should have been omplied with.

* * * *

15) MR. PRAVDA: I haven't got a copy, I ent to the Court a precipi for issuance of ubpoenas on a number of witnesses on behalf

of the Defendant.

THE COURT: The Court is not responsible for issuing subpoenas under the judicial laws.

MR. SCARANO: It is my understanding you may subpoena whoever you like in the name of the judge and that I would submit that you cannot expect the judge to prepare subpoenas for the defense. There is no provision in the criminal procedure law for that process.

MR. PRAVDA: Well, you will have to wait a minute. I will look it up.

THE COURT: Make it know that the Town of Saratoga does not have a court clerk.

MR. PRAVDA: The criminal procedure law provides that either the prosecutor or a member of the Court or the Court can subpoena witnesses.

MR. SCARANO: On their own behalf.

MR. PRAVDA: It is the duty of the Court, it is a matter of due process to

nsure the defense has witnesses available
n his behalf.

MR. SCARANO: As counsel for yourself,
ou have the power to subpoena anyone you
ant.

MR. PRAVDA: I ask the Court to sub-
oena them on my behalf.

MR. SCARANO: I oppose the continuance.

MR. PRAVDA: What ground?

MR. SCARANO: That you are not enti-
led to it....

* * * *

THE COURT: I will deny it and let the
rial proceed ....

* * * *

MR. PRAVDA: I object on the grounds
hat my rights to due process of law and my
onstitutional rights to a fair trial are
iolated by these proceedings, the denial of
y right to have witnesses appear in my
ehalf.

MR. SCARANO: Any other motions?

MR. PRAVDA: Wait, let me finish. And my objection is based on the fact that this court left me in a quandry, not realizing what their next move would be, due to the hop scotch, back and forth, kangaroo techniques involved, and I also make a motion that, and object to the present panel, the array.

MR. SCARANO: What basis?

MR. PRAVDA: Reason I stated, I was not available for selection.

MR. SCARANO: How do you rule on that motion, your Honor?

THE COURT: The time Mr. Pravda was last in court, it was gone over, he neither agreed or disagreed to, at that time, and I said then I will proceed as usual and I assumed he was in agreement because he did not say "No, I object to that procedure."

MR. SCARANO: Do you grant or deny his motion?

THE COURT: Deny the motion.

MR. PRAVDA: I object. That matter was never brought up.

THE COURT: The matter was brought up at the time, the time was set, the date was set and the procedures. The only thing that was not accepted or discussed at that time was the length of time from 6 o'clock til, okay? That was going to be discussed at this time between the three of us in terms of under the law, court procedure laws, we can cut off within a reasonable time. It is recommended between 12:00 and 1:00 o'clock. We did not set forth that time and I thought that this time we would set forth like we have done in the past, which has been agreeable to all the attorneys that we have dealt with.

MR. SCARANO: Do you have any other motions, Mr. Pravda?

MR. PRAVDA: I object to that entire statement. This is the jury list?

THE COURT: That is the jury list,

right.

MR. PRAVDA: Pardon me, excuse me.

MR. SCARANO: Do you have anything else, Mr. Pravda?

MR. PRAVDA: Pardon me, I heard the question the first time. I say I am studying something.

MR. SCARANO: What are you studying? This is for the purpose of making motions. Do you have any other (19) motions to make?

THE COURT: Being recognized by the Court that both of them now for the first time the People and the Defendant, Mr. Pravda, have received the jury list like in preceding cases, fifteen names.

MR. PRAVDA: I object. I have a pile of papers which I would like to look over and see what the meaning of it is.

THE COURT: This is a standard New York State form. Notice of jury duty.

MR. SCARANO: Your honor, I would ask that we proceed.

THE COURT: Okay.

MR. SCARANO: Do you have anything else, Mr. Pravda?

MR. PRAVDA: I have, I am studying this paper.

MR. SCARANO: Your Honor, I submit that we have jurors out in the courtroom.

THE COURT: Yes.

MR. PRAVDA: I just received this. I just received this. I have to examine this.

MR. SCARANO: They are just names.

(20) MR. PRAVDA: I ask for a recess of half an hour.

MR. SCARANO: I object. It is 6:23 in the evening. We have to conduct a jury trial.

MR. PRAVDA: I object.

MR. SCARANO: We have to use common sense in this matter. I ask we proceed with the trial.

MR. PRAVDA: I ask for a recess.

MR. SCARANO: Do you grant or deny it?

THE COURT: I grant it.

MR. SCARANO: Do you want to get started?

THE COURT: Yes, I do.

MR. SCARANO: Do you have any other motions, Mr. Pravda? If not, we will begin.

MR. PRAVDA: Yes, I make a motion for a change of venue.

MR. SCARANO: I object. Do you grant that or deny it?

THE COURT: Deny it.

* * * *

(22) MR. PRAVDA: Well, I made a motion that we examine the proceedings that took place to determine whether there was a fair and impartial proceedings.

MR. SCARANO: Is that motion denied or granted?

MR. PRAVDA: And I make a motion we continue this matter so that Defendant may obtain witnesses to prove the fact that a fair and impartial trial proceedings were not held up to this point.

MR. SCARANO: Anything else?

MR. PRAVDA: Yes, I also make the motion that the judge is disqualified because of these actions.

MR. SCARANO: Any other motions? How do you rule on those, your Honor?

THE COURT: Well, see, what is the first one (23) he asked?

MR. SCARANO: There is a motion to examine all evidence to see if there was a change of venue. Motion for you to disqualify yourself.

THE COURT: Anything else?

MR. PRAVDA: Yes. I make a motion that this court never demonstrated to the Defendant that it had jurisdiction of this matter because the misdemeanor complaint that the Court, that Judge Hutzky handed to the Defendant at one of the preceding, previous hearings constitute only one sheet which I have before me now, unsigned as to who the complainant was, and other adequate form according to the criminal procedure law. This is what you handed me. I stapled my note to it.

THE COURT: Okay. It is an information, Simplified Information, and it is made out to County of Saratoga, Town of Saratoga, okay? And the People of the State of New York, excuse me, it is Malta, it was made out to Malta. The People of the State of New York versus, against Frank Pravda. John D. Hall, Jr., residing at R.D. 1, Fitch Road --

MR. SCARANO: I would stipulate to the contents (24) of that without the necessity of reading.

*   *   *   *

(34) MR. PRAVDA: I would like to hear the testimony for the last ten minutes.

MR. SCARANO: I object to it, your Honor, not the last ten minutes. We owe these people a courtesy to get out there and get on with this, or tell them to go home.

MR. PRAVDA: And you owe the Defendant a fair trial. You forgot that ever since you have been on this case.

MR. SCARANO: Can we do this --

THE COURT: We have given you an opportunity for a fair trial, sir. We have given it to you.

MR. PRAVDA: I don't consider this an opportunity for a fair trial.

MR. SCARANO: Judge, he will argue with you all night. May we proceed or not?

MR. PRAVDA: Calling a person an idiot - is (35) that an opportunity for a fair trial? Having the District Attorney, Assistant District Attorney Jerry Scarano standing beside your side on the podium, is that an impartial judge? Is that fair and impartial?

* * * *

MR. PRAVDA: Let the record show --

MR. SCARANO: It shows everything.

MR. PRAVDA: -- that the judge and prosecutor are standing side by side.

* * * *

(36) . . . I would like to hear the record, he had an opportunity, you have had an opportunity to hear the record reread.

* * * *

(37) (Whereupon the reporter began reading from the required portion of the minutes.)

MR. SCARANO: I don't think there is any reason to read this. Everything has been in this room. We know that, what has been said. I am going to ask the Court to make a decision on the question that is before us.

MR. PRAVDA: I object that you interrupted the court reporter from reading the previous proceedings.

MR. SCARANO: I am asking the Court to make a decision.

MR. PRAVDA: The Court, who has control of the Court reporter?

MR. SCARANO: The Court does.

THE COURT: All right. --

MR. PRAVDA: You proceeded to tell him to stop reading the record.

* * * *

(38) MR. SCARANO: He will do this all day, Judge. This is what happened in Ballston Spa. It will go on for hours and hours. Would you rule?

MR. PRAVDA: What happened in Ballston Spa? ....

* * * *

(39) . . . I would like to hear what happened in Ballston Spa.

MR. SCARANO: No, and --

THE COURT: We will proceed with the trial.

* * * *

(Whereupon parties proceeded to courtroom.)

THE COURT: Ladies and gentlemen, I welcome you to the town court, Town of Saratoga, and I am very sorry that we have waited so long. We tried to resolve a problem which is unresolvable. ....

* * * *

(40). . . The trial which you are about to, is about to commence is a criminal action entitled The People of the State of New York Against Frank Pravda, P-r-a-v-d-a, which occurred on the twenty-ninth day of December, 1981 on Fitch Road in the Town of Saratoga and is assault, third degree, a misdemeanor in violation of Section 120 of the penal laws of the State of New York, in that he, at the aforesaid time and place did commit, with intent to cause physical injury to another person, he did cause such physical injury to another person. ...

* * * *

(43). . . As the trial jury, you must consider and indicate as simple pieces of paper the D. A. may present or Defendant may present as accusing of the crime. Only you, the members of the jury, can determine the guilt and determine the processes of law that should be established here in this court..

* * * *

(44). . . Being excused does not reflect on your responsibility as a citizen or a person. It simply determines under the rules by one or more of the parties or by me that you are not to be seated on this particular case because of your knowledge of it, or relationship to. Before we start examination, I want ensure that none of you has pressing family or business obligations or physical problems. Is there anybody here that cannot hear? Anybody here that has a bad heart? Okay. All right. Seeing nobody that has that, then we will proceed. ...

* * * *

(45) MR. PRAVDA: I challenge the panel, the array.

MR. SCARANO: The motion has been made, your Honor. The challenge has been made.

MR. PRAVDA: I wasn't present when

these names were drawn.

THE COURT: You are present.

* * * *

(47). . . Mrs. Haley.

MR. PRAVDA: Lawrence D. Haley?

THE COURT: Yes, Mrs. Lawrence D. Haley, and Christine Horowitz. Howitts.

MR. PRAVDA: Howitts?

THE COURT: Yes.

MR. PRAVDA: I don't believe I have it. I will, I have to go through it again. I haven't found it, pardon me.

THE COURT: You have the list of people that we have already selected, you have found it.

MR. PRAVDA: Is this the stack of sheets you gave me as prospective jurors? I have to find it.

MR. SCARANO: May we proceed?

MR. PRAVDA: Pardon me.

* * * *

. . . I object. I object. I most strenuously object. This has been his characteristic all through these proceedings up to this point. Intends on rushing the situation. After all, --

* * * *

(52). . . I would like to identify the people for my records so that when I examine them --

(53) MR. SCARANO: They have been identified, your Honor. He has been given time to look over them.

* * * *

(55) THE COURT: No. 10, by now you have a general idea of what sort of things might affect the qualifications in the course of this, whether I or a lawyer or the (56) Defendant in this particular case may be asking you. ...

* * * *

(57) . . . All right, I will explain to you closely the case exactly what "reasonable" means. What you will be required to find

within yourselves after determining amongst you people the evidence that has been presented to you. ...

* * * *

(58). . . There is no need to discuss general acceptances of the principles (59) or one such as the jury cannot avoid following, such as necessary unanimous verdict. The question should be whatever is possible by and determined by the jury, so as to reveal no bias or in favor of the determination. ..

MR. SCARANO: Ladies and gentlemen, I really don't have a lot of questions for you. The Judge told you my name is Jerry Scarano. I am Assistant District Attorney. ...

(60) . . . It is alleged that back on December 29, 1981, which was almost a year ago, Mr. Pravda assaulted Mr. Hall and Mr. Hall claims that Mr. Pravda sprayed a type of chemical irritant in his face and caused an injury to him, something similar to Mace, and that this occurred on Fitch Road, in the

Town of Saratoga.

* * * *

(61) MR. PRAVDA: Ladies and gentlemen,... My questions and your answers are submitted to assure myself that you indeed do qualify under the law to sit on the jury panel. Your acceptance or rejection for this position is a result (62) of the jury commissioner, the Court, prosecutor, and myself, of whether you meet the requirements of the law in every particular. Each of my questions is submitted solely to assure myself that you are fully qualified. Please answer truthfully, carefully, and to the best of your ability. Thank you for your co-operation.

THE COURT: Would you please proceed with your questioning, sir?

MR. PRAVDA: In a moment. I have to get situated. I will examine each of you at a time. I have Shirley Drumm, D R U M M. That is you?

MS. DRUMM: Umm hmm.

* * * *

MR. PRAVDA: Were you ever a victim of an attempted assault or actual assault?

MS. DRUMM: No.

MR. PRAVDA: Did you ever engage in physical combat of any kind?

MS. DRUMM: No.

MR. PRAVDA: Have you ever experienced a chemical irritant on your face, skin, or throat?

MS. DRUMM: No.

MR. PRAVDA: Did you ever inhale chemical irritants that caused you to cough or choke?

MS. DRUMM: Pardon?

MR. PRAVDA: Did you ever inhale chemical irritants that caused you to cough or choke?

MS. DRUMM: Barn cleaner chemicals down to (65) the barn, is all.

MR. PRAVDA: What kind of barn cleaners were they?

MS. DRUMM: Oh, gee, just acids and stuff we use to clean the utensils.

MR. PRAVDA: Common around a farm, is that right?

MS. DRUMM: Umm hmm.

MR. PRAVDA: I see, you don't know the name of them?

MS. DRUMM: No.

MR. PRAVDA: Actually cause you to choke and irritate your skin?

MS. DRUMM: If you use them wrong, yes.

* * * *

(67) MR. PRAVDA: ... If you owned a dog that had just bitten someone, what would you do?

MS. DRUMM: I would punish my dog and pay for doctor bills.

* * * *

(68) MR. PRAVDA: How are you informed to appear here?

MS. DRUMM: By a letter in the mail asking me to serve jury duty, you know, a form.

MR. PRAVDA: Umm hmm. And did you fill out a questionnaire sent to you to establish your qualifications for jury duty?

MS. DRUMM: No, I did not receive one.

MR. PRAVDA: Hmmm. You didn't receive anything from the commissioner of jurors?

MS. DRUMM: Not that I can remember.

(69) THE COURT: Under the town laws, that is not necessary. The names appear of those people living in the Town of Saratoga in which they were extracted from the list of people. Some people had indicated that they were, her name appears on the jury list as indicating that she would serve.

* * * *

(70) MR. PRAVDA: Okay. Shall I assume I can ask -- perhaps I can save time by assuming that none of the prospective jurors has filled out this, any form of any kind. Has any of you filled out a form?

MR. PEETS: From the Commissioner of

Jurors in the county, yes, but never in the township, no.

MR. PRAVDA: You haven't.

MR. PEETS: I might have four years ago. I was called four years ago. Never had to serve but I mean as of, none for this.

THE COURT: They don't have to do it for the town. They do when they go to the county.

* * * *

(71) MR. PRAVDA: Do you know any member of the Whiney family living in the Town of Saratoga?

MS. DRUMM: I have only bought vegetables up there. I don't know them personally, no.

THE COURT: They do not live in the Town of Saratoga, Town of Northumberland.

THE COURT: Are you finished?

MR. PRAVDA: No, pardon me, I am, I have problems. I say, are you related in any way to the Hall family?

MS. DRUMM: No, none.

MR. PRAVDA: You meet with them very often?

MS. DRUMM: Never.

MR. PRAVDA: You have never met them?

MS. DRUMM: Oh, yes, I have never met this (72) person, no.

MR. PRAVDA: No; the family though?

MS. DRUMM: No. Not really.

* * * *

(73) MR. PRAVDA: Okay. I have a -- I would like to give you a pencil and paper here and will you please write the following statement on this?

MR. SCARANO: I object to this, your Honor. We are turning this into a circus. It is for the purpose of asking questions and they should not be subjected to this.

THE COURT: All right.

MR. PRAVDA: I am trying to establish the fact of whether this juror meets the requirement of the jurors --

THE COURT: If you challenge it, then when you finish questioning the others, then you can challenge. That has been established by the Commissioner of Jurors of Saratoga County and we will proceed with that.

* * * *

(74) MR. PRAVDA: Have you ever used a spray device to apply any substance?

MS. DRUMM: No.

MR. PRAVDA: Do you harbor any prejudice against single alone individuals who live at home with (75) their mother?

MS. DRUMM: No.

MR. PRAVDA: Do you believe that Saratoga County and Town of Saratoga is immune from political corruption?

MS. DRUMM: Yes. I am not into politics, so I wouldn't know, you know.

MR. PRAVDA: Well, if you don't know, make up your mind. Do you believe it?

MS. DRUMM: Not from the people I know, no.

MR. PRAVDA: ... Do you presume that a person complaining of an assault is telling the whole truth and nothing but the truth?

MS. DRUMM: Yes.

MR. PRAVDA: Do you presume that a defendant accused of an assault must prove his innocence?

MS. DRUMM: Yes.

* * * *

(76) THE COURT: I think, you know, these people have to get up and go to work in the morning and I think you are being a little out of place by asking a lot of these questions.

MR. PRAVDA: I like to get up early in the (77) morning.

THE COURT: You don't have to go to work, these people have jobs to maintain.

MR. PRAVDA: Let the record reflect that the Court is insulting Defendant.

* * * *

(79) MR. SCARANO: I have a motion to make

outside of the presence of the jury.

THE COURT: Okay.

* * * *

(Whereupon the Court, the Defendant, and Mr. ((80)) Scarano, along with the court reporter retired to chambers)

MR. SCARANO: Your Honor, motion is that we have now been at this proceeding approximately two hours and we haven't gotten by the questioning of the first juror. I think it is clear that this proceeding cannot take place in its entirity due to the fact that Mr. Pravda will not abide by the rules of this court, by the rules of the criminal procedure law of the State of New York. I think it is equally clear that he is not capable of defending himself in this matter. I think it is also clear that the entire jury panel has been tainted due to the remarks that have been said in the court room, and based upon all of that, I respectfully move that the Court declare a mistrial.

And that a time be set for Mr. Pravda's appearance when this matter can proceed from here.

THE COURT: Okay. So granted.

* * * *

(81). . . Okay, and for all the ground rules. Now if you are going to object, I want it on the record that we be, I will select twenty people. We will draw --

MR. SCARANO: Well your Honor, I ask that the matter not be set down, I do not want it to be immediately set down for another jury trial. There are some obstacles here that are going to have to be overcome and I think we have to address ourselves to that first and would like to do that on January 4th.

THE COURT: All right. So granted. ..

* * * *

(83) . . . It will be pre-trial conference to establish the guide lines and which direction we will proceed from there.

* * * *

(Whereupon all parties returned to the court room)

THE COURT: ... The Court at this time has declared a mistrial due to the circumstances beyond my legal ability and whatever because of questioning and the length of time that has been established. Further trial date will be set at a later time. Mr. Pravda will appear again on January 4th at 8 o'clock. I want to thank you people very much for coming. I want to say that I am sorry that we could not proceed as the law would require.

(84) MR. SCARANO: We should emphasize the jurors are not asked to be here on January 4th. If there is going to be another trial new notices will be sent out to them or to somebody else and they would be notified.

THE COURT: Right, okay. Thank you very much and have a pleasant holiday.

(Whereupon matter concluded)

(85) CERTIFICATION

I, MARK A. McCONCHIE do hereby certify that I am the stenographer in the aforementioned matter, and that the foregoing is a true and accurate transcript of the hearing held in the above entitled matter at the time and place herein stated and of the whole thereof, to the best of my knowledge and ability.

/s/ Mark A. McConchie

MARK A. McCONCHIE

Court Reporter

STATE OF NEW YORK TOWN OF SARATOGA
TOWN COURT COUNTY OF SARATOGA

Filed: September 7,1982

THE PEOPLE OF THE STATE OF NEW YORK

-against-

FRANK PRAVDA,

Defendant.

ORDER FOR
PSYCHIATRIC
EXAMINATION
(CPL 730.30)

It appearing to this Court that there is reasonable ground to believing that the defendant, charged with the crime of assault third degree, is in such a state of idiocy, imbecility or insanity that he is incapable of understanding the charge or proceedings or of making his defense, it is

ORDERED that the defendant be formally examined to determine the question of his insanity pursuant to 730.30 of the Criminal Procedure Law, and it is further

ORDERED that the Director of Community Mental Health Services for the County of Saratoga cause an examination of defendant to be made and accordingly for such purpose, designate two (2) qualified psychiatrists, one of whom may be himself, to conduct such examination, and it is further

ORDERED that upon the completion of such examination a report be made to this Court in such form and manner as required by law, and it is further

ORDERED that pending the completion of such examination all proceedings in the above entitled action be and the same is hereby stayed.

DATED: 9/7/82 1982

/s/ Paul E. Hutzky
Town Judge, Town of Saratoga

STATE OF NEW YORK: COUNTY OF SARATOGA

TOWN COURT TOWN OF SARATOGA

Filed: July 14, 1982

BENCH WARRANT

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK,

To any Police Officer of the Sheriff of Saratoga County Department, At Ballston Spa, New York

Frank Pravda, defendant

having been arraigned by this Court on a charge of Assault Third Degree

in violation of Section 120.00 (1), of the Penal (Vehicle and Traffic) Law, a securing order having been made herein, and the said defendant having been directed to appear before this Court on the 14 day of January 1982, and said defendant having failed to appear as directed:

This was the directive of Judge James Nichols Jr. Town of Malta

YOU ARE, THEREFORE, COMMANDED forthwith

to arrest the above named Frank Pravda and bring him before this Court at Any time of Day or Night

in the Town of Saratoga, County of Saratoga, New York.

Issued this 14 day of July, 1982.

Cash $500. 00/xx

Bond $2,500. 00/ox

(To Appear August 3rd 7:00 PM)

/s/ Paul E. Hutzky
Justice

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEBRASKA

Filed: February 3, 1984

NO. CV82-L-420

FRANK PRAVDA,

Plaintiff,

vs.

ROBERT G. AVEY, et al,

Defendants.

MEMORANDUM AND ORDER ON MOTION FOR RELIEF FROM JUDGMENT

Pursuant to Rules 60(b)(1) and (3) of the Federal Rules of Civil Procedure, the plaintiff has moved for relief from my order of February 4, 1983, which dismissed his case in its entirety.

The motion was filed on February 2, 1984. Rule 60(b) says that motions under 60(b)(1) and (3) must be made within a reasonable time after the final judgment, but this reasonable time may never exceed one year. Here, the plaintiff has shown that after he received the final judgment he contacted an attorney, that he relied on that attorney to proceed with the present action, and that the attorney did not do so. The plaintiff has also shown that when he learned the attorney had not proceeded with this action, the plaintiff, acting pro se, compiled all the relevant material needed for a Rule 60(b) motion and presented it to me. The plaintiff's motion has been filed within one year of the final judgment and within a reasonable time.

I now turn to the merits of the motion, which seeks relief for "mistake, inadvertence, surprise, or excusable neglect" and for an adverse party's fraud, misrepresentation, or misconduct. Rule 60(b)(1) has been used to grant relief where a party was confused about filing or trial dates, where a court officer made a mistake, or where a party's attorney inadvertently exceeded his authority to settle. See 7 Moore's Federal Practice, ¶ 60.22(2), at 60-175 to 60-178. The plaintiff's materials present none of these situations. The only possible inadvertence which I see is that the plaintiff did not submit briefs in opposition to the defendants' dismissal motions, and the plaintiff's affidavit implies that for the past several years his time has been consumed by poor health and other legal matters. He has not shown, however, that these problems prevented him from responding to the dismissal motions, and I observe that he did not request an extention of time in which to submit his responsive briefs. I also note that my order of August 30, 1982, specifically told the plaintiff that the motions would be treated under Local Rule 20, a copy of which was mailed to him, which gave him ten days in which to respond with a brief. Since the plaintiff has not shown the occurrence of any mistake, inadvertence, surprise or excusable neglect, I must deny his Rule 60(b)(1) motion.

His Rule 60(b)(3) motion falls on similar grounds, for he has not shown that the defendants used fraudulent documents or perjured testimony to support their dismissal actions or that they committed fraud or improper acts which prevented the plaintiff from presenting his position to this court. See 7 Moore's Federal Practice, ¶ 60.24(5), at 60-210 to 60-211.

I also believe I must deny the relief motion because the plaintiff has not shown that any mistake or fraud which allegedly occurred had any effect on my decision to dismiss the case. I have read the court file, reread my dismissal order, and carefully examined the plaintiff's affidavits and supporting documents. The latter materials neither address nor rebut the points I made in the dismissal order; the dismissal was correct and should stand.

IT THEREFORE IS ORDERED that the plaintiff's motion for relief from judgment, filing 21, is denied.

Dated February 3, 1984.

BY THE COURT

/s/ Warren K. Urbom

Chief Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEBRASKA

Entered: February 7, 1983

NO. CV82-L-420

FRANK PRAVDA,

Plaintiff,

vs.

ROBERT G. AVEY, et al,

Defendants.

ORDER

For the reasons stated in the accompanying memorandum,

IT IS ORDERED:

1. That the federal defendants' motion to amend their answer, filing 12 is granted;

2. That the defendants' motions for dismissal or for summary judgment, filings 4, 5, 6, 7, 8, 9 and 17, are granted to the extent specified in the accompanying memorandum; and

3. That counts I through VII of the complaint are dismissed and the action is dismissed.

Dated February 4,1983

BY THE COURT

/s/ Warren K. Urbom

Chief Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA
Filed: February 4, 1983

NO. CV82-L-420

FRANK PRAVDA,

Plaintiff,

vs.

ROBERT G. AVEY, et al,

Defendants.

MEMORANDUM

The plaintiff has sued forty-two defendants, contesting the condemnation and purchase, circa 1975, of 1.6 acres of his land by the State of Nebraska for use in a highway-widening project. He alleges conspiracies under 42 U.S.C. §§ 1985(2) and (3); violations of 42 U.S.C. § 1983, § 28-202, R.R.S. Neb. (Reissue 1979), N.Y. Penal Law §§ 105.00 et seq. (Consol. 1975), and 18 U.S.C. § 1341; tortious invasion of privacy; and the intentional infliction of emotional distress. Seven motions for dismissal or summary judgment have been filed and the supporting briefs present numerous arguments. Because several of the arguments provide sufficient reason to dismiss the case, I shall not consider the others.

The complaint alleges that defendants Henning, Garden and McFadden acted in their official capacities as state district judges and that Mary Ann Wilcox acted in her official capacity as an associate district judge. These defendants are entitled to absolute immunity. Stump v Sparkman, 435 U.S. 349, 356-357, 362 (1978).

The defendants Seller, Shinrock, Adkins and Purdy by filing 7 have moved to dismiss the complaint against them because they were never served with process. The plaintiff attempted service on these defendants by using a college student from New York who had not been appointed as a process server. The student said that he had not served these defendants because Judge Garden had intimidated him in an unspecified manner. Letter, Thomas Turner to Judge Miner, filing 1. Nothing in the file indicates that the plaintiff tried to serve these defendants after they filed their motion to dismiss on August 30, 1982. Since service was improper and insufficient under Rule 4(d)(1) of the Federal Rules of Civil Procedure, which requires personal service on a defendant by a court-appointed agent, and since the plaintiff has not attempted to cure this defect, the action against the unserved defendants will be dismissed. Free State Receivables v Claims Processing, Etc., 76 F.R.D. 85, 87 (U.S.D.C. Md. 1977)

Counts I and II of the complaint allege conspiracies under 42 U.S.C. §§ 1985(2) and (3). However, these sections require that any alleged conspiracy be based on racial or class animus, Ledwith v Douglas, 568 F.2d 117, 119 (C.A. 8th Cir. 1978); Jones v

United States, 536 F.2d 269, 271 (C.A. 8th Cir. 1976); § 1985 does not encompass tortious acts which have no element of class discrimination, Griffin v Breckenridge, 403 U.S. 88, 101-102 (1971). The complaint here alleges that the plaintiff is a "highway-fronting property owner" and a non-Nebraskan who owns property in Nebraska. Although the federal courts have never specifically explained what class-based animus is, McNally v Pulitzer Publishing Company, 532 F.2d 69, 74, n. 1 (C.A. 8th Cir. 1976), I do not believe that the plaintiff's assertions constitute the class-based discrimination which § 1985 requires. Counts I and II of the complaint will be dismissed as to all of the defendants.

Count III of the complaint alleges a violation of 42 U.S.C. § 1983. This section has a three-year period of limitations. Garmon v Foust, 668 F.2d 400, 406 (C.A. 8th Cir. 1982); Chambers v Omaha Public School

District, 536 F.2d 222, 228 (C.A. 8th Cir. 1976). This lawsuit was filed on April 20, 1982, but nearly all of the events alleged in the complaint occurred before April 20, 1979. The defendants' statute of limitations arguments are somewhat complicated by the plaintiff's allegations of a conspiracy. Each time a defendant acts to further a conspiracy and thereby injures the plaintiff, a cause of action accrues and a plaintiff can recover damages for that act; however, the statute of limitations immediately begins to run for that act. Zenith Radio Corporation v Hazeltine Research, 401 U.S. 321, 338 (1971). Although Zenith concerned a conspiracy to violate federal antitrust laws, this rule has also been applied to civil conspiracies to violate federal civil rights laws. Kadar Corporation v Milbury, 549 F.2d 230, 234-235 (C.A. 1st Cir. 1977); Gual Morales v Herandes Vega, 579 F.2d 677, 681 (C.A. 1st Cir. 1978); Lawrence v Acree, 665 F.2d 1319, 1324 (C.A. D.C. Cir. 1981); Mizell v North Broward Hospital District, 427 F.2d 468, 475 (C.A. 5th Cir. 1970).

The only defendants who are alleged to have acted in furtherance of the conspiracy after April 20, 1979, are Judge Garden and Robert G. Avey. Judge Garden is absolutely immune, as indicated above. Avey is alleged to have attended a pretrial conference and to have written a letter in response to an inquiry by Senator Moynihan of New York. Because Avey committed these alleged acts in his capacity as an assistant attorney general for Nebraska, he is immune. Scolnick v Lefkowitz, 329 F.2d 716 (C.A. 2nd Cir.), cert. denied, 379 U.S. 825 (1964); Niklaus v Simmons, 196 F. Supp. 691, 714 (U.S.C.D. Neb. 1961); Modern Social Education, Inc. v Preller, 353 F. Supp. 173, 183 (U.S.D.C. Md. 1973). The complaint also alleges that on November 23, 1979, the plaintiff visited his property and discovered that it had been damaged. The complaint does not allege when the damage was done, and it fails to allege that any of the defendants were responsible. The last overt act which any of the defendants (except Garden and Avey) allegedly committed to further the conspiracy occurred on September 25, 1978; the statute of limitations, therefore, bars the plaintiff from suing them. Kadar Corporation v Milbury, supra, 549 F.2d at 234-235; Lawrence v Acree, supra, 665 F.2d at 681. Because Avey and Judge Garden are protected by immunity, and the remaining defendants are protected by the statute of limitations, the plaintiff's § 1983 claims will be dismissed.

Count IV of the complaint presents claims under § 28-202, R.R.S. Neb. (Reissue 1979) and N.Y. Penal Law §§ 105.00 et seq. (Consol. 1975). Both of these are criminal conspiracy statutes; they do not create a civil cause of action. Similarly, Count V alleges a violation of 18 U.S.C. § 1341, which makes mail fraud a criminal offense and which does not create a civil cause of action. Ryan v Ohio Edison Co., 611 F.2d 1177-1178 (C.A. 6th Cir. 1979). Counts IV and V will be dismissed.

Count VI of the complaint alleges an invasion of privacy under Nebraska and New York law. The Nebraska statute which created a right of privacy became effective August 24, 1979. Before that date there was not a right to privacy in Nebraska. See Carson v National Bank of Commerce, 501 F.2d 1082 (C.A. 8th Cir. 1974); Brunson v Ranks Army Store, 161 Neb. 519, 73 N.W.2d 803 (1956). Almost all of the plaintiff's allegations occurred before that date. To the extent, however, that the plaintiff has a cause of action on this ground, it is barred by the one-year statute of limitations. § 20-211, R.R.S. Neb. (1982 Cum. Supp.). As for the plaintiff's claim under the laws of New York, there is nothing in the complaint which alleges that any acts which invaded his privacy were committed in New York. Paragraphs 57 to 61 and 75 to 77 allege that some of the defendants mailed deceptive and fraudulent letters to the plaintiff in New York, but I do not see where that constitutes an invasion of privacy. Count VI will be dismissed.

Count VII alleges the intentional infliction of severe emotional distress. The Restatement (Second) of Torts, § 46, says that a person who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress or bodily harm. See Davis v Texaco, 210 Neb. 67, 69, 313 N.W. 2d 221, 223 (1981); 193 Neb. 368, 370, 227 N.W. 2d 402, 404 (1975). The complaint's allegations concern a condemnation action for a highway-widening project which the plaintiff vehemently opposed. I do not see where any of the allegations describe "extreme and outrageous conduct" by any of the defendants. Count VII will be dismissed.

Dated February 4, 1983

BY THE COURT

/s/ Warren K. Urbom

Chief Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: July 23, 1982

NO. 82-CV-378

FRANK PRAVDA,

Plaintiff,

vs.

ROBERT AVEY, et al,

Defendants.

ORDER

Now on this 16th day of July, 1982, at 9:30 A.M., the Motion to Dismiss of the defendants came on for hearing before Judge Roger J. Miner, presiding.

Frank Pravda appeared pro se.

Royce N. Harper, Assistant Attorney General, State of Nebraska, appeared for the defendants.

Argument to the court was had.

The court, being fully informed in the premises, denies defendants' Motion to

Dismiss but, sua sponte, finds in the interest of justice that the case should be and hereby is ordered to be transferred to the United States District Court for the District of Nebraska.

Dated this 23 day of July, 1982, at Albany, N.Y.

BY THE COURT

/s/ Roger J. Miner

United States District Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: December 1,1983

NO: 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G. B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., and EDWARD POWERS,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

AS AND FOR A FIRST CAUSE OF ACTION PLAINTIFF ALLEGES:

1. This court has jurisdiction over this

action pursuant to 28 U.S.C. Section 1343 and 42 U.S.C. Sections 1983, 1985 (2) (3) and 28 U.S.C. Section 1331 (a).

2. Plaintiff, Frank Pravda, is a citizen of the State of New York. Each defendant other than named governments is a citizen of the State of New York. The matter in controversy exceeds $10,000.00, exclusive of interest and costs.

3. Venue is proper in this jurisdiction pursuant to 28 U.S.C. Section 1391 (b). All of the wrongful acts and deprivations of rights for which plaintiff seeks relief occurred within the Northern District of New York, and have caused personal injury within the Northern District of New York.

4. Jurisdiction founded on the existence of a federal question and amount in controversy. The action arises under the United States Constitution, particularly under the provisions of the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the

Constitution of the United States, and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Sections 1983, 1985 (2) (3), as hereinafter more fully appears.

5. On or about June 30, 1981, the defendants herein formed a conspiracy with regard to which each and every defendant was or became a co-conspirator. The purpose of the conspiracy was to and continues to deprive plaintiff of the equal protection of the law and of the privileges and immunities granted to him under the laws and the Constitution of the United States and the State of New York. The conspiracy was and continues to be the result of a) defendants' desire to obtain plaintiff's family land for defendants' use in full violation of due process of law; b) defendants' class based animus toward plaintiff as a citizen of eastern European descent; c) defendants' quest for personal and political power; d) the

punishment of plaintiff for his refusal to submit to the objectives of the conspiracy. Defendants purpose is willfully, wrongfully and maliciously to a) secure Pravda land by unlawful means; b) to coerce plaintiff through force, threats of force, verbal abuse, intimidation, harassment into foregoing his civil rights.

6. On several occasions prior to June 30, 1981, defendants, JOHN HALL, SR., ROBERT HALL, SR. and other unnamed co-conspirators invaded Pravda land on several occasions and attempted to establish a roadway thereon for their personal use. The above named defendants undertook a campaign of intimidation and harassment of plaintiff, including obscene hand gestures, abusive language, challenging plaintiff to engage in physical battle, and a physical attack on the plaintiff near his home. Defendants, ROBERT HALL, SR. and JOHN HALL, SR., and JOHN D. HALL, JR., thereafter entered into this pervasive

conspiracy to accomplish the goals set forth in paragraph 5. The conspiracy sought and seeks to effect for certain conspirators the ultimate objective of their perpetual use of plaintiff's family property in violation of plaintiff's property rights and via the denial of plaintiff's civil rights.

7. On June 30, 1981 plaintiff was walking on Pravda land when approached by JOHN HALL, SR., tax assessor for the Town of Saratoga, who challenged plaintiff's right to be there and cited Town tax records. Soon JOHN HALL, SR. was joined by defendant ROBERT HALL, SR., councilman for the Town of Saratoga, and by defendant JOHN D. HALL, JR. Without warning or cause the three defendants unlawfully seized the plaintiff and dragged him onto Hall land and there made various threats against plaintiff's person and put plaintiff in fear of imminent peril. Defendant ROBERT HALL, SR. on this occasion and several past occasions repeatedly called

the plaintiff a "bastard polack" evidencing class based animus by the defendant.

8. This confederacy between said named defendants was formed for the purpose of achieving by their joint efforts the unlawful objectives as outlined in paragraph 5 supra. By reason and in consequence of this conspiracy, defendants did violate plaintiff's Fourth Amendment rights to be secure in his person, house, papers and effects against unreasonable searches and seizures; did violate plaintiff's Fifth and Fourteenth Amendment rights not to be deprived of life, liberty or property without due process of law; did violate plaintiff's Fourteenth Amendment rights to have equal protection of the laws; did violate plaintiff's civil rights in violation of 42 U.S.C. 1983. Further, defendants did commit assault and battery upon the plaintiff's person by said unlawful touching of the plaintiff's person and by intentionally and unlawfully

threatening the plaintiff under such circumstances as to create a well founded fear of imminent peril coupled with the apparent present ability of the defendants to execute their attempt against the plaintiff's person. These acts of defendants among others included a) unlawfully seizing the plaintiff, b) use of power and force in their official capacity; c) informing plaintiff that if at any time he came anywhere near HALL land he would be taken care of once and for all; d) making gestures with clenched fists which caused plaintiff to fear that he would be painfully and offensively struck at any moment.

9. Defendants wrongfully, willfully and maliciously and without right or a pretense of legal process, falsely seized, imprisoned and confined the plaintiff and deprived him of his liberty. As a result plaintiff was injured, and was prevented from transacting his business, suffered great pain of body

and mind.

10. Plaintiff has sustained damages as a result of said conspiracy in violation of 42 U.S.C. Section 1985 (2)(3) in the amount of $2,000,000.

AS AND FOR A SECOND CAUSE OF ACTION, PLAINTIFF ALLEGES:

11. Repeats and realleges each and every allegation contained in paragraphs "1" through "9" of this complaint with the same force and effect as if fully set forth herein.

12. Plaintiff has sustained damages as a result of said violation of his Fourth Amendment rights in the amount of $1,000,000.00

AS AND FOR A THIRD CAUSE OF ACTION, PLAINTIFF ALLEGES:

13. Repeats and realleges each and every allegation contained in paragraphs "1" through "9" of this complaint with the same force and effect as if fully set forth

herein.

14. Plaintiff has sustained damages as a result of said violation of his Fifth Amendment rights in the amount of $1,000,000.

AS AND FOR A FOURTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

15. Repeats and realleges each and every allegation contained in paragraphs "1" through "9" of this complaint with the same force and effect as if fully set forth herein.

16. Plaintiff has sustained damages as a result of said violation of his Fourteenth Amendment rights in the amount of $1,000,000.

AS AND FOR A FIFTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

17. Repeats and realleges each and every allegation contained in paragraphs "1" through "9" of this complaint with the same force and effect as if fully set forth herein.

18. Plaintiff has sustained damages as a result of said violation of 42 U.S.C. Section 1983 in the amount of $1,000,000.

AS AND FOR A SIXTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

19. Repeats and realleges each and every allegation contained in paragraphs "1" through "9" of this complaint with the same force and effect as if fully set forth herein.

20. Plaintiff has sustained damages as a result of said assault and battery in the amount of $2,000,000.

AS AND FOR A SEVENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

21. Repeats and realleges each and every allegation contained in paragraphs "1" through "9" of this complaint with the same force and effect as if fully set forth herein.

22. Plaintiff has sustained damages as a result of said false imprisonment in the

amount of $2,000,000.

AS AND FOR AN EIGHTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

23. Repeats and realleges each and every allegation contained in paragraphs "1" through "9" of this complaint with the same force and effect as if fully set forth herein.

24. Plaintiff has sustained damages as a result of said intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A NINTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

25. Repeats and realleges each and every allegation contained in paragraphs "1" through "4" of this complaint with the same force and effect as if fully set forth herein.

26. After the incident referred to in paragraphs "5" through "9", supra, plaintiff immediately went home and made a telephone

call to the Malta New York State Police Station for aid and was told that immediate aid would come. After plaintiff waited for approximately one half an hour for aid, without any police aid arriving, plaintiff telephoned the Saratoga County Sheriff's Department in Ballston Spa, New York for aid and was told that immediate aid would come. No one from the Sheriff's Department ever came. Soon thereafter, outside of plaintiff's home, plaintiff met defendant, G.B. VAN HEUSEN, who was wearing the official uniform, insignia and badge of the New York State Police. After hearing plaintiff relate his experience, defendant VAN HEUSEN embarked on a campaign of intimidation of the plaintiff. Defendant VAN HEUSEN acting in confederacy with the other co-conspirators, undertook a campaign to coerce the plaintiff to forego his constitutional rights and informed plaintiff that plaintiff's right to travel freely on PRAVDA land and anywhere in the vicinity of HALL land and to be secure in his person and property did not concern the defendant VAN HEUSEN, a representative of the New York State Police, and the defendant VAN HEUSEN taunted plaintiff to "go ahead and write to the Governor of New York". When plaintiff then asked for police protection from his assailants, defendant VAN HEUSEN just laughed at him. On or about July 17, 1981, defendant VAN HEUSEN came to plaintiff's home, in the company of another unidentified New York State Policeman. In an apparent attempt to cover up the wrongful acts of the defendant VAN HEUSEN that occurred on June 30, 1981, the statement was made by the defendants that they had not come to arrest plaintiff, but that they had come to smooth things over between plaintiff and defendant VAN HEUSEN. It is believed that their visit was in response to a complaint letter that plaintiff had sent to Governor Carey on June 30, 1981 (see infra). These occurrences on June 30, 1981, placed plaintiff in such a state of despair that he was and remains constantly in fear for his life and his wellbeing and safety and has caused plaintiff to forego many of his rights. Defendants wrongfully, willfully and maliciously and without right or a pretense of legal process, did refuse to come to plaintiff's aid; did refuse to afford plaintiff the protection of the laws; did taunt and laugh at the plaintiff in an effort to coerce and distress and intimidate the plaintiff; and did refuse to institute an investigation of the attack against plaintiff's person. These acts were done in pursuance of said conspiracy and by reason and in consequence of this conspiracy defendants did violate plaintiff's Fifth and Fourteenth Amendment rights to due process of law; did violate plaintiff's Fourteenth Amendment right to have equal protection of the laws; did violate plaintiff's civil rights in violation of 42 U.S.C. 1983; did cause the intentional infliction of emotional distress on the plaintiff; and did continue the assault on the plaintiff by causing him to be in constant fear of iminent peril of his person. As a result, plaintiff was injured, was prevented from transacting his business and suffered great pain of body and mind.

27. Plaintiff has sustained damages as a result of said conspiracy in violation of 42 U.S.C. Section 1985 (2)(3) in the amount of $2,000,000.

AS AND FOR A TENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

28. Repeats and realleges each and every allegation contained in paragraphs "25" through "26" of this complaint with the same force and effect as if fully set forth herein.

29. Plaintiff has sustained damages as a result of said violation of plaintiff's

Fifth Amendment rights in the amount of $1,000,000.

AS AND FOR AN ELEVENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

30. Repeats and realleges each and every allegation contained in paragraphs "25" through "26" of this complaint with the same force and effect as if fully set forth herein.

31. Plaintiff has sustained damages as a result of said violation of plaintiff's Fourteenth Amendment rights in the amount of $1,000,000.

AS AND FOR A TWELFTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

32. Repeats and realleges each and every allegation contained in paragraphs "25" through "26" of this complaint with the same force and effect as if fully set forth herein.

33. Plaintiff has sustained damages as a result of said violation of 42 U.S.C.

Section 1983 in the amount of $1,000,000.

AS AND FOR A THIRTEENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

34. Repeats and realleges each and every allegation contained in paragraphs "25" through "26" of this complaint with the same force and effect as if fully set forth herein.

35. Plaintiff has sustained damages as a result of said intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A FOURTEENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

36. Repeats and realleges each and every allegation contained in paragraphs "25" through "26" of this complaint with the same force and effect as if fully set forth herein.

37. Plaintiff has sustained damages as a result of said assault in the amount of $1,000,000.

AS AND FOR A FIFTEENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

38. Repeats and realleges each and every allegation contained in paragraphs "1" through "4" of this complaint with the same force and effect as if fully set forth herein.

39. On June 30, 1981, following the above described acts, plaintiff sent a letter to Gov. Carey regarding events outlined in paragraphs "5" through "9" and "26", supra. On July 7, 1981, plaintiff received a letter from Lt. Col. Jerome McNulty indicating that meetings had taken place in State Government subdivisions concerning this matter. Upon information and belief, defendant ABRAMS, as Attorney General of the State of New York, received copies of said letter from plaintiff to Gov. Carey. On July 4, 1981, plaintiff sent a letter to the Attorney General of the State of New York describing the unlawful activities of

the defendants on June 30,1981. On July 23, 1981, defendant COOPER, on behalf of and in collusion with defendant ABRAMS, and other defendants, sent a letter to plaintiff, in pursuance of said conspiracy. In said letter the defendants did not address the events of June 30, 1981 but instead addressed the question of the boundary line between PRAVDA and HALL land. This letter was designed to avoid the issue of the conspiracy and to mislead and deceive the plaintiff regarding matters of law and the truth of the boundary between PRAVDA land and HALL land. Defendants wrongfully, willfully and maliciously and without right or a pretense of legal process, did cause this letter to be written in a manner intending to mislead and deceive the plaintiff and for the purpose of intimidating and coercing the plaintiff to forego his rights in an effort to circumvent the due process of law. This letter and the acts surrounding it were done in pursuance of said conspiracy and by reason and in consequence of it defendants did violate plaintiff's Fifth and Fourteenth Amendment rights to due process of law; did violate plaintiff's Fourteenth Amendment right to equal protection of the laws; did violate plaintiff's civil rights in violation of 42 U.S.C. Section 1983; and did intentionally cause the infliction of emotional distress to the plaintiff.

40. Plaintiff has sustained damages as a result of the conspiracy in violation of 42 U.S.C. Section 1985 (2)(3) in the amount of $1,000,000.

AS AND FOR A SIXTEENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

41. Repeats and realleges each and every allegation contained in paragraphs "38" through "39" of this complaint with the same force and effect as if fully set forth herein.

42. Plaintiff has sustained damages as

a result of said violation of his Fifth Amendment rights in the amount of $1,000,000.

AS AND FOR A SEVENTEENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

43. Repeats and realleges each and every allegation contained in paragraphs "38" through "39" of this complaint with the same force and effect as if fully set forth herein.

44. Plaintiff has sustained damages as a result of said violation of his Fourteenth Amendment rights in the amount of $1,000,000.

AS AND FOR AN EIGHTEENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

45. Repeats and realleges each and every allegation contained in paragraphs "38" through "39" of this complaint with the same force and effect as if fully set forth herein.

46. Plaintiff has sustained damages as a result of said violation of 42 U.S.C. Section 1983 in the amount of $1,000,000.

AS AND FOR A NINETEENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

47. Repeats and realleges each and every allegation contained in paragraphs "38" through "39" of this complaint with the same force and effect as if fully set forth herein.

48. Plaintiff has sustained damages as a result of said intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A TWENTIETH CAUSE OF ACTION, PLAINTIFF ALLEGES:

49. Repeats and realleges each and every allegation contained in paragraphs "1" through "4" of this complaint with the same force and effect as if fully set forth herein.

50. On December 29, 1981, the plaintiff was the owner of and entitled to the immediate possession of a chain saw with an estimated value of $100. On December 29, 1981, defendant, JOHN D. HALL, JR., and another

unknown man walked over and reached through a fence and did convert said chain saw for defendants' own use. As defendant JOHN D. HALL, JR. walked away he yelled out to the plaintiff "Go ahead and call the police". The conversion of plaintiff's chain saw was done in pursuance of said conspiracy and the defendants did intentionally cause the infliction of emotional distress to the plaintiff and did continue the assault on the plaintiff causing him to be in constant fear of his imminent peril.

51. Plaintiff has sustained damages as a result of the conspiracy in violation of 42 U.S.C. Section 1985 (2)(3) in the amount of $1,000,000.

AS AND FOR A TWENTY-FIRST CAUSE OF ACTION, PLAINTIFF ALLEGES:

52. Repeats and realleges each and every allegation contained in paragraphs "49" through "50" of this complaint with the same force and effect as if fully set forth

herein.

53. Plaintiff has sustained damages as a result of the intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A TWENTY-SECOND CAUSE OF ACTION, PLAINTIFF ALLEGES:

54. Repeats and realleges each and every allegation contained in paragraphs "49" and "50" of this complaint with the same force and effect as if fully set forth herein.

55. Plaintiff has sustained damages as a result of said assault in the amount of $1,000,000.

AS AND FOR A TWENTY-THIRD CAUSE OF ACTION, PLAINTIFF ALLEGES:

56. Repeats and realleges each and every allegation contained in paragraphs "49" and "50" of this complaint with the same force and effect as if fully set forth herein.

57. Plaintiff has sustained damages as a result of said conversion of chattels in the amount of $100.

AS AND FOR A TWENTY-FOURTH CAUSE OF
CTION, PLAINTIFF ALLEGES:

58. Repeats and realleges each and every llegation contained in paragraphs "1" hrough "4" of this complaint with the same orce and effect as if fully set forth erein.

59. Upon information and belief within an hour after the conversion of plaintiff's property referred to in paragraph "50", *supra*, information was presented to JAMES R. NICHOLS, SR., Town Justice of the Town of Malta, by defendant JOHN D. HALL, JR., the same person who minutes before had converted plaintiff's chain saw (See paragraph "50" *supra*). The information charged plaintiff with the crime of assault in the third degree. Upon information and belief, Judge NICHOLS issued a warrant for plaintiff's arrest and shortly thereafter plaintiff was arrested at his home. There were two Saratoga County Sheriff's Department

arresting officers and at the time of the arrest, one of the arresting officers stated to the plaintiff that the chain saw had been taken to plaintiff's brother, George Pravda. Defendant BARGOUR was the arresting officer and was accompanied by an unidentified deputy. Defendant BARGOUR put handcuffs on the plaintiff painfully tight and made statements indicative of a scheme to create further falsehoods about the plaintiff. Defendant BARGOUR refused to institute an investigation of the conversion of plaintiff's chain saw. Defendant BARGOUR then drove plaintiff to an arraignment and on the way defendant BARGOUR told plaintiff that he would say to the Judge that plaintiff had refused to be fingerprinted and photographed, although this was not true. Judge NICHOLS of the Town of Malta Court fixed bail at $100 and plaintiff was then sent to the Jail at Ballston Spa, New York, where he was subjected to numerous physical and mental abuses by Saratoga County Sheriff's Deputies.

60. When plaintiff was arrested he lawfully and peacefully submitted to the arrest and entered the Municipal Center Jail as a prisoner and lawfully informed his captors of his wish to remain silent. Saratoga County Sheriffs Deputy HUGHES withheld plaintiff's right to make a phone call and also refused to institute an investigation of the chain saw conversion. Defendant HUGHES also submitted plaintiff to exposure and vulgar language in an attempt to force plaintiff to forego his right to remain silent. Saratoga County Sheriffs Deputy DAKE threatened to inflict sadistic kinds of bodily injury and even to dispatch with plaintiff. Defendant DAKE and other deputies threatened various acts of torture against the plaintiff unless the plaintiff would forego his right to remain silent. Said threats included but are not limited to the following: that they would place plaintiff in a cell without

bedding overnight and in a totally nude bodily state; that they would blow plaintiff away in a faked escape attempt; that they would drag plaintiff behind their car at a high speed tied by plaintiff's penis; that they would drive a nail through the plaintiff's penis; that they would cut off the plaintiff's testicles; that they would kick the plaintiff's teeth out; that they would kick the plaintiff's head in. Defendant HUGHES placed the plaintiff in a cell without bedding or sufficient clothing. Soon after various deputies came into the cell and began to physically abuse plaintiff. These acts were carried out by Saratoga County Sheriffs Deputies DAKE, HUGHES, CUCCICO, SARGEANT, and various others. The violent tortures which were administered against the plaintiff include, but are not limited to; damage to plaintiff's fingers using a metal device; pulling clumps of hair out of the plaintiff's head; snapping the plaintiff's head back and forth; punching the plaintiff in the spine; kicking the plaintiff in the body; banging the plaintiff's head against the cell wall; cutting the plaintiff's leg with a metal object; suddenly and without warning jerking plaintiff's limbs; suddenly and without warning yelling into the plaintiff's ear; repeated picking up and dropping plaintiff onto the floor; calling plaintiff a "bastard polack" on numerous occasions; and various other threats and physical abuses. The Saratoga County Sheriff's Deputies then removed the plaintiff from his cell, disrobed him and placed him in an ice cold shower.

61. After plaintiff's brother posted bail and plaintiff was released, an assistant held plaintiff while defendant DAKE put a scarf around plaintiff's neck and pulled it tightly around plaintiff's windpipe and stated "that's right I'm Judge, Jury, and Hangman", and then defendant DAKE stated

"I know where you live and I'll be around to see you". Defendant DAKE told plaintiff to go ahead and write to the Governor of New York, thereby indicating that the conspirators had knowledge that the plaintiff had earlier written to the Governor and that the plaintiff had repeatedly appealed to higher authorities without prevail.

62. Defendants wrongfully, willfully and maliciously and without right or a pretense of legal process and in furtherance of the conspiracy did cause a warrant to issue against the plaintiff based on false information and without probable cause; did cause the plaintiff to be unlawfully arrested and to suffer great shame and humiliation, pain and anguish of mind, and injury to his health, business and community standing; did cause the unlawful imprisonment and confinement of plaintiff and deprived him of his liberty for several hours without any right or authority to do so and against the will

of the plaintiff whereby plaintiff was not only bruised and wounded and seriously injured, but was also subjected to great humiliation and ridicule and was injured in his credit, and was prevented from attending to his necessary affairs; did violate plaintiff's Fourteenth Amendment rights to equal protection of the laws; did violate plaintiff's Sixth Amendment rights to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, and to have the assistance of counsel for his defense; did violate plaintiff's Eighth Amendment right to be free from excessive bail and cruel and unusual punishment; did violate plaintiff's civil rights in violation of 42 U.S.C. Section 1983; did commit assault and battery upon the plaintiff by unlawfully touching the plaintiff and intentionally and unlawfully threatening plaintiff under such circumstances as to create a well founded fear of imminent peril coupled with the apparent present ability of defendants to execute their threats.

63. Plaintiff has sustained damages as a result of the conspiracy in violation of 42 U.S.C. Section 1985 (2)(3) in the amount of $2,000,000.

AS AND FOR A TWENTY-FIFTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

64. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

65. Plaintiff has sustained damages as a result of said malicious prosecution in the amount of $1,000,000.

AS AND FOR A TWENTY-SIXTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

66. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same

force and effect as if fully set forth herein.

67. Plaintiff has sustained damages as a result of said false arrest and imprisonment in the amount of $2,000,000.

AS AND FOR A TWENTY-SEVENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

68. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

69. Plaintiff has sustained damages as a result of said violation of his Fourth Amendment rights in the amount of $1,000,000.

AS AND FOR A TWENTY-EIGHTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

70. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

71. Plaintiff has sustained damages as a result of said violation of his Fifth Amendment rights in the amount of $1,000,000.

AS AND FOR A TWENTY-NINTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

72. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

73. Plaintiff has sustained damages as a result of said violation of his Fourteenth Amendment rights in the amount of $1,000,000.

AS AND FOR A THIRTIETH CAUSE OF ACTION, PLAINTIFF ALLEGES:

74. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

75. Plaintiff has sustained damages as a result of said violation of his Sixth

Amendment rights in the amount of $1,000,000.

AS AND FOR A THIRTY-FIRST CAUSE OF ACTION, PLAINTIFF ALLEGES:

76. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

77. Plaintiff has sustained damages as a result of said violation of his Eighth Amendment rights in the amount of $1,000,000.

AS AND FOR A THIRTY-SECOND CAUSE OF ACTION, PLAINTIFF ALLEGES:

78. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

79. Plaintiff has sustained damages as a result of said violation of 42 U.S.C. Section 1983 in the amount of $1,000,000

AS AND FOR A THIRTY-THIRD CAUSE OF ACTION, PLAINTIFF ALLEGES:

80. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

81. Plaintiff has sustained damages as a result of said assault and battery in the amount of $5,000,000.

AS AND FOR A THIRTY-FOURTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

82. Repeats and realleges each and every allegation contained in paragraphs "58" through "62" of this complaint with the same force and effect as if fully set forth herein.

83. Plaintiff has sustained damages as a result of said intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A THIRTY-FIFTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

84. Repeats and realleges each and every allegation contained in paragraphs "1" through "4" of this complaint with the same force and effect as if fully set forth herein.

85. On December 29, 1981, plaintiff sent a letter to Gov. Carey regarding the incident at the Saratoga County Jail facility as outlined above but received no reply to or action on the letter.

86. On January 14, 1983 plaintiff appeared as a defendant at the Town Court in the Town of Malta, New York, as ordered by Judge NICHOLS pursuant to the third degree assault charge. Defendant NICHOLS sat at the bench and defendant CHAUVIN was acting as Assistant District Attorney for Saratoga County. Defendant CHAUVIN called plaintiff's name and when plaintiff came forward, defendant CHAUVIN directed him into a room next to the courtroom where there was an unidentified man (later identified as

defendant POWERS) who refused to identify himself and whom defendant CHAUVIN refused to identify. Plaintiff then returned to the Courtroom and defendant NICHOLS called plaintiff before him. Plaintiff asked defendant NICHOLS why he had been required to appear before the Court, however defendant NICHOLS did not respond. Defendant CHAUVIN approached the bench and publicly accused plaintiff of holding up the Court proceedings. Plaintiff could not get information from the defendants regarding the nature and cause of the accusation against him and what procedures were to take place. These acts demonstrated to the plaintiff that a viable court did not exist. Defendant CHAUVIN harassed and intimidated the plaintiff with these backroom tactics and public accusation against the plaintiff. Plaintiff's rights to due process and equal protection were denied by the defendants. Defendant POWERS harassed and intimidated plaintiff.

These acts were done in furtherance of the conspiracy and by reason and in consequence of this conspiracy defendants did violate plaintiff's Fifth Amendment and Fourteenth Amendment rights to due process of law; did violate plaintiff's Fourteenth Amendment right to equal protection of the laws; did violate plaintiff's Sixth Amendment right to be informed of the nature and cause of the accusation against him; did violate plaintiff's civil rights in violation of 42 U.S.C. 1983; did cause the malicious prosecution of the plaintiff, subjecting plaintiff to great indignity and humiliation and pain and distress of mind and body; and did intentionally inflict emotional distress on the plaintiff; all in furtherance of the objectives of the conspiracy.

87. Plaintiff has sustained damages as a result of said conspiracy in violation of 42 U.S.C. 1985 (2)(3) in the amount of $1,000,000.

AS AND FOR A THIRTY-SIXTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

88. Repeats and realleges each and every allegation contained in paragraphs "84" through "86" of this complaint with the same force and effect as if fully set forth herein.

89. Plaintiff has sustained damages as a result of said malicious prosecution in the amount of $1,000,000.

AS AND FOR A THIRTY-SEVENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

90. Repeats and realleges each and every allegation contained in paragraphs "84" through "86" of this complaint with the same force and effect as if fully set forth herein.

91. Plaintiff has sustained damages as a result of said violation of his Fifth Amendment rights in the amount of $1,000,000.

AS AND FOR A THIRTY-EIGHTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

92. Repeats and realleges each and every llegation contained in paragraphs "84" hrough "86" of this complaint with the same orce and effect as if fully set forth erein.

93. Plaintiff has sustained damages as a esult of said violation of his Fourteenth mendment rights in the amount of $1,000,000.

AS AND FOR A THIRTY-NINTH CAUSE OF ACTION, LAINTIFF ALLEGES:

94. Repeats and realleges each and every llegation contained in paragraphs "84" hrough "86" of this complaint with the same orce and effect as if fully set forth erein.

95. Plaintiff has sustained damages as a esult of said violation of his Sixth Amendent rights in the amount of $1,000,000.

AS AND FOR A FORTIETH CAUSE OF ACTION, LAINTIFF ALLEGES:

96. Repeats and realleges each and every llegation contained in paragraphs "84"

through "86" of this complaint with the same force and effect as if fully set forth herein.

97. Plaintiff has sustained damages as a result of said violation of 42 U.S.C. Section 1983 in the amount of $1,000,000.

AS AND FOR A FORTY-FIRST CAUSE OF ACTION, PLAINTIFF ALLEGES:

98. Repeats and realleges each and every allegation contained in paragraphs "84" through "86" of this complaint with the same force and effect as if fully set forth herein.

99. Plaintiff has sustained damage as a result of the intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A FORTY-SECOND CAUSE OF ACTION, PLAINTIFF ALLEGES:

100. Repeats and realleges each and every allegation set forth in paragraphs "1" through "4" of this complaint with the same force and effect as if fully set forth

erein.

101. On January 22, 1982, defendant ICHOLS wrote plaintiff a letter stating hat plaintiff's case was to be transferred o the Town of Saratoga and would be handled y Justice Hathaway. Plaintiff made several ttempts to contact defendant NICHOLS regarding this matter, and when he finally got hrough to him by telephone, defendant ICHOLS then identified the new Judge as udge Hutzky.

102. On February 4, 1982, and again on ebruary 25,1982, plaintiff sent letters to he Saratoga County District Attorney's ffice requesting information regarding the riminal charges pending against the plainiff. Plaintiff received no response until arch 4, 1982 when defendant DAVID WAIT, istrict Attorney for Saratoga County, wrote nd sent a letter to plaintiff. The letter ave none of the information which plaintiff ad requested. In addition, defendant WAIT

in the letter requested plaintiff to give him information regarding the Saratoga County Jail incident. thereby avoiding plaintiff's questions regarding the criminal charges pending against him. It is believed that this letter was sent as part of the conspiracy and defendants wrongfully, willfully, maliciously and without right or pretense of legal process, did intentionally intimidate and deceive the plaintiff; did violate plaintiff's Fifth Amendment and Fourteenth Amendment rights to due process of law by circumventing plaintiff's efforts to represent himself in the pending criminal charges; did violate plaintiff's Fourteenth Amendment right to equal protection of the laws; did violate plaintiff's Sixth Amendment right to be informed of the nature and cause of the accusation against him; did violate plaintiff's civil rights in violation of 42 U.S.C. Section 1983; did cause the continuing malicious prosecution against the plaintiff; and did intentionally inflict emotional distress on the plaintiff by their acts.

103. Plaintiff has sustained damage as a result of the conspiracy in violation of 42 U.S.C. 1985 (2)(3) in the amount of $1,000,000.

AS AND FOR A FORTY-THIRD CAUSE OF ACTION, PLAINTIFF ALLEGES:

104. Repeats and realleges each and every allegation contained in paragraphs "100" through "102" of this complaint with the same force and effect as if fully set forth herein.

105. Plaintiff has sustained damage as a result of said violation of his Fifth Amendment rights in the amount of $1,000,000.

AS AND FOR A FORTY-FOURTH CAUSE OF ACTION PLAINTIFF ALLEGES:

106. Repeats and realleges each and every allegation contained in paragraphs "100" through "102" of this complaint with the

same force and effect as if fully set forth herein.

107. Plaintiff has sustained damage as a result of said violation of his Fourteenth Amendment rights in the amount of $1,000,000.

AS AND FOR A FORTY-FIFTH CAUSE OF ACTION PLAINTIFF ALLEGES:

108. Repeats and realleges each and every allegation contained in paragraphs "100" through "102" of this complaint with the same force and effect as if fully set forth herein.

109. Plaintiff has sustained damage as a result of said violation of his Sixth Amendment rights in the amount of $1,000,000.

AS AND FOR A FORTY-SIXTH CAUSE OF ACTION PLAINTIFF ALLEGES:

110. Repeats and realleges each and every allegation contained in paragraphs "100" through "102" of this complaint with the same force and effect as if fully set forth herein.

111. Plaintiff has sustained damage as a esult of said violation of 42 U.S.C. ection 1983 in the amount of $1,000,000.

AS AND FOR A FORTY-SEVENTH CAUSE OF CTION PLAINTIFF ALLEGES:

112. Repeats and realleges each and every llegation contained in paragraphs "100" hrough "102" of this complaint with the ame force and effect as if fully set orth herein.

113. Plaintiff has sustained damage as a esult of said malicious prosecution in the mount of $1,000,000.

AS AND FOR A FORTY-EIGHTH CAUSE OF CTION PLAINTIFF ALLEGES:

114. Repeats and realleges each and every llegation contained in paragraphs "100" hrough "102" of this complaint with the ame force and effect as if fully set orth herein.

115. Plaintiff has sustained damage as he result of said intentional infliction

of emotional distress in the amount of $1,000,000.

AS AND FOR A FORTY-NINTH CAUSE OF ACTION PLAINTIFF ALLEGES:

116. Repeats and realleges each and every allegation contained in paragraphs "1" through "4" of this complaint with the same force and effect as if fully set forth herein.

117. In June of 1982, Judge Hutzky, the Judge then assigned to the matter of the criminal charges against the plaintiff, upon information and belief, phoned George Pravda (plaintiff's brother) and conveyed the message that if plaintiff wished to attend a meeting on the issue of the boundary line between PRAVDA land and HALL land, Judge Hutzky would drop the criminal charges.

118. Upon information and belief, on July 14, 1982, Judge Hutzky issued a bench warrant for the immediate arrest of the plaintiff based on malicious and false

ccusations that the plaintiff had been di-
ected to appear before Town of Saratoga
ourt on January 14th and failed to appear
s directed. Plaintiff was maliciously and
alsely accused of jumping bail and being a
ugitive from justice. Plaintiff was actu-
lly present at the Town of Saratoga Court
n January 14th, 1982.

119. On July 15, 1983, at the Saratoga
ounty Municipal Center plaintiff was ac-
osted repeatedly by a person identified as
homas McNamara who claimed first to be an
gent of the County of Saratoga and then
laimed to represent the Town of Malta.
laintiff was also accosted by a person
dentified as Jerry Scarano who claimed to
e an Assistant District Attorney for
aratoga County. As plaintiff left the
enter he was again accosted by Scarano and
lso by 2 Saratoga County Sheriff's Deputies
ho then arrested plaintiff on the bench
arrant referred to in Paragraph 118, supra,

which was signed by the Town of Saratoga Justice Hutzky. This warrant and subsequent wrongful arrest demonstrated the continuing efforts of the defendants to achieve the objectives of the conspiracy. Upon being arrested the 2 officers brought the plaintiff to Schuylerville, New York where Town of Saratoga Justice Robbins ordered plaintiff to present himself before Justice Robbins in the Town of Saratoga Court on August 3, 1982. Justice Robbins set bail at $500 cash or $2500 bond. Plaintiff paid the $500 cash bail on said date. On August 3, 1982, plaintiff appeared as ordered by Judge Robbins. Judge Hutzky, Saratoga County Assistant District Attorney Scarano and Judge Robbins were present in the Town of Saratoga Court on said date. Plaintiff sought information regarding the jurisdiction of the Court but was denied an answer. Scarano then said that trial was set for September 7, 1982.

120. In the intervening time period plaintiff made a motion to dismiss the indictment. Said motion was to be heard on August 24, 1982 at 7:00 p.m., however, when plaintiff arrived at the appointed time and place he found no one there. On August 28, 1982, plaintiff received a letter from Assistant District Attorney Scarano which said that plaintiff's motion to dismiss would be heard on September 7th, 1982 at 7:00 P.M.

121. In the meantime plaintiff entered a motion for a bill of particulars which motion was scheduled to be heard on August 31, 1982 at 7:00 P.M. When plaintiff arrived at the appointed date and time he found no one there.

122. On September 7, 1982 plaintiff appeared at Town of Saratoga Court and at 8:00 P.M. he was called before the Court. Judge Hutzky denied plaintiff's motion to dismiss. At that time plaintiff was presented with a document entitled "Order for

Psychiatric Examination" which contained the accusation that the Court felt there was reasonable ground to believe plaintiff was an idiot, imbecile and insane. Said document was signed by Judge Hutzky.

123. Defendants wrongfully, willfully and maliciously and without right or pretense of legal process, and in furtherance of the conspiracy, did cause a warrant to issue against the plaintiff based on false information and without probable cause; did cause plaintiff to be unlawfully arrested and to suffer great shame and humiliation, pain and anguish of mind, and injury to his health, business and community standing; did cause the unlawful seizure of the plaintiff thereby depriving him of his liberty for an extended period of time, without any right or authority to do so and against the will of the plaintiff, whereby plaintiff was subjected to great humiliation and ridicule and was injured in his credit, and was

prevented from attending to his necessary affairs; did violate plaintiff's Fourth Amendment right to be secure from unreasonable searches and seizures; did violate plaintiff's Fifth Amendment and Fourteenth Amendment rights to due process of law; did violate plaintiff's Fourteenth Amendment right to equal protection of the laws; did violate plaintiff's civil rights in violation of 42 U.S.C. Section 1983; did commit assault and battery upon the plaintiff by unlawfully touching the plaintiff and intentionally and unlawfully causing plaintiff to have a well founded fear of imminent peril coupled with the apparent present ability of defendants to seriously harm the plaintiff in light of the circumstances surrounding plaintiff's last arrest on December 29, 1981 (see Paragraphs "59" through "62" supra); and did intentionally inflict emotional distress on the plaintiff by their acts, all in furtherance of the conspiracy.

124. Plaintiff has sustained damage as a result of the conspiracy in violation of 42 U.S.C. 1985 (2)(3) in the amount of $2,000,000.

AS AND FOR A FIFTIETH CAUSE OF ACTION, PLAINTIFF ALLEGES:

125. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

126. Plaintiff has sustained damage as a result of the malicious prosecution in the amount of $1,000,000.

AS AND FOR A FIFTY-FIRST CAUSE OF ACTION, PLAINTIFF ALLEGES:

127. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

128. Plaintiff has sustained damage as a result of the false arrest and imprisonment in the amount of $2,000,000.

AS AND FOR A FIFTY-SECOND CAUSE OF ACTION, PLAINTIFF ALLEGES:

129. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

130. Plaintiff has sustained damage as a result of said violation of his Fourth Amendment rights in the amount of $1,000,000.

AS AND FOR A FIFTY-THIRD CAUSE OF ACTION, PLAINTIFF ALLEGES:

131. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

132. Plaintiff has sustained damage as a result of said violation of his Fifth

Amendment rights in the amount of $1,000,000.

AS AND FOR A FIFTY-FOURTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

133. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

134. Plaintiff has sustained damage as a result of said violation of his Fourteenth Amendment rights in the amount of $1,000,000.

AS AND FOR A FIFTY-FIFTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

135. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

136. Plaintiff has sustained damage as a result of said violation of 42 U.S.C. 1983 in the amount of $1,000,000.

AS AND FOR A FIFTY-SIXTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

137. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

138. Plaintiff has sustained damage as a result of said assault and battery in the amount of $1,000,000.

AS AND FOR A FIFTY-SEVENTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

139. Repeats and realleges each and every allegation contained in paragraphs "116" through "123" of this complaint with the same force and effect as if fully set forth herein.

140. Plaintiff has sustained damage as a result of said intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A FIFTY-EIGHTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

141. Repeats and realleges each and every allegation contained in paragraphs "1" through "4" of this complaint with the same force and effect as if fully set forth herein.

142. On April 5, 1983, plaintiff drove his car into his garage when a car pulled up and a loudspeaker blared out the plaintiff's name and said that this was the State Police and that plaintiff should come out because they wanted to talk to him. Various statements were made from the loudspeaker such as "Come out or I'll have an army in here in 5 minutes"; "We'll break down the door, we know you're in there"; "Come out or we'll send in the dogs to get you", "Why don't you come out and surrender peacefully, we won't harm you", and various other statements. There was also pounding on the garage door. Shortly thereafter, the car drove away.

143. These acts and various others too

numerous to mention in this complaint all evidence the continuing conspiracy against the plaintiff and the pervasive nature of the defendants' acts used to carry out the objectives of the conspiracy and to now cover up the conspiracy.

144. In addition to the specific acts of misconduct alleged, defendants ABRAMS (Attorney General of the State of New York, WAIT (District Attorney of Saratoga County), the STATE OF NEW YORK, the COUNTY OF SARATOGA, the TOWN OF MALTA, and JAMES BOWEN (Saratoga County Sheriff) are all made defendants in this complaint by virtue of their actual agreement to participate in the conspiracy and by their constructive agreement to participate in the conspiracy through their personnel, operatives, utilization of various government infrastructures, and their gross negligence in the operation and supervision of their facilities and personnel for which they are responsible.

145. Defendants wrongfully, willfully and maliciously did cause the intentional infliction of emotional distress on the plaintiff; did continue the assault on the plaintiff by causing him to be in constant fear of imminent peril of his person. These acts were done in pursuance of said conspiracy.

146. Plaintiff has sustained damage as a result of said conspiracy in violation of 42 U.S.C. Section 1985 (2)(3) in the amount of $1,000,000.

AS AND FOR A FIFTY-NINTH CAUSE OF ACTION, PLAINTIFF ALLEGES:

147. Repeats and realleges each and every allegation contained in paragraphs "141" through "145" of this complaint with the same force and effect as if fully set forth herein.

148. Plaintiff has sustained damage as a result of said intentional infliction of emotional distress in the amount of $1,000,000.

AS AND FOR A SIXTIETH CAUSE OF ACTION, PLAINTIFF ALLEGES:

149. Repeats and realleges each and every allegation contained in paragraphs "141" through "145" of this complaint with the same force and effect as if fully set forth herein.

150. Plaintiff has sustained damage as a result of said assault in the amount of $1,000,000.

WHEREFORE, Plaintiff demands:

1) that the Court issue a preliminary injunction enjoining the Defendants, THE STATE OF NEW YORK, and THE DISTRICT ATTORNEY'S OFFICE OF THE COUNTY OF SARATOGA, from prosecuting the pending criminal charges against the plaintiff until this civil action is completed, to wit: a) third degree assault charge stemming from an incident which allegedly occured on December 29, 1981 as alleged in a warrant issued by Judge NICHOLS of the Town of Malta on December 29,

1981; b) jumping bail and fugitive from justice charge as alleged in a bench warrant issued by Judge Hutzky in the Town of Saratoga on July 14, 1982;

2) judgment against the defendants holding them jointly and severally liable for the damages to the plaintiff resulting from the conspiracy in which all of the defendants participated, and the various acts and wrongful conduct of the defendants as outlined in plaintiff's complaint, all in the amount of SEVENTY-ONE MILLION ONE HUNDRED DOLLARS ($71,000,100.00) compensatory damages, and FIFTY MILLION DOLLARS ($50,000,000.00) punitive damages, together with interests and costs of this action, reasonable attorneys fees as provided by statute; and

3) any further relief which the Court deems just and proper.

Respectfully submitted
/s/ Rolf Ondeck Ronning
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Filed: April 20,1982

NO: 82-CV-378

FRANK PRAVDA,

Plaintiff,

vs.

ROBERT G. AVEY, R. BRUCE HENNING,
PAUL L. DOUGLAS, EILEEN EUCKER,
OLIVER PURDY, WILLARD W. BURNEY,
ART BOETTCHER, DANIEL B. FLOOD,
DAVID O. COOLIDGE, HAROLD SELLER,
RICHARD P. GARDEN, JOHN G. BRINJAK,
WARREN D. LICHTY, JR., MARY ANN WILCOX,
PAUL TERRY, JOE SULLIVAN, WALTER R. ZICH,
ERNEST WERNER, ROBERT ADKINS, MARV HARRING,
GEORGE TANNEHILL, DENNIS W. COLLINS,
JIM WINKELBAUER, NOMA SHINROCK,
RANDALL NEEDHAM, LYLE HERBOLSHEIMER,
EUGENE C. MC FADDEN, C.E. FOSLIEN,
STEVE OLTMANS, RANSOM G. ROMAN,

MARLIN LANDANGER, R.H. HOGREFE,
F.H. ZIMMERMAN, ROBERT FRICKEL, JOE DOE,
PHIL DOE, MAX DOE, JOHN DOE, PAUL DOE,
JAMES C. HUPP, T.P. MC CARTHY, JACK DOE,
Defendants.

COMPLAINT
AND DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1. This court has jurisdiction over this action pursuant to 28 U.S.C. Sections 1332, 1343 (1) (2) (3) (4) and 42 U.S.C. Sections 1983, 1985 (2) (3).

2. Plaintiff, Frank Pravda, is a citizen of the State of New York. Each defendant is a citizen of a state other than the State of New York. The matter in controversy exceeds $10,000.00, exclusive of interest and costs.

3. Venue is proper in this jurisdiction pursuant to 28 U.S.C. Section 1391 (a). Some of the wrongful acts and deprivations of rights for which plaintiff seeks relief

occurred within the Northern District of New York via the U.S. Mails and have caused personal injury within the Northern District of New York, although many of the acts complained of also took place outside of the Northern District of New York pursuant to the conspiracy. Furthermore, the nature of the conspiracy and the resulting personal injury have devastated the ability of plaintiff to engage in an action for relief in any other jurisdiction. The pervasive nature of the conspiracy and the failure of a viable court of law and due process, comprising a variety of wrongful activities of Nebraska officials throughout the territory of Nebraska at issue in this action, requires that venue outside of the territory of Nebraska consti- a reasonable requisite for justice in this litigation.

4. This action arises under the United States Constitution, particularly under the provisions of the Fourth, Fifth, Seventh,

and Fourteenth Amendments to the Constitution of the United States, and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Sections 1983, 1985 (2) (3); and under Title 18, Section 1341.

PARTIES

5. Plaintiff is an adult citizen of the State of New York residing at Condon Rd., Town of Saratoga, New York. At the time of the events complained of herein, the plaintiff was (and remains) a property owner of property located in the State of Nebraska, and whose subject property was and is under siege by State of Nebraska official forces. As a highway-fronting property owner the plaintiff, along with other highway-fronting property owners, constitute a recognizable group of persons who are bound together by common rights to the security and use of their properties. During the time of the events complained of herein, the plaintiff

resided in New York State and visited Nebraska in a continuing effort to exercise his legitimate rights to use and protect his property there; until his health succumbed to the conspiratorial plague. As a property owner the plaintiff along with other property owners, constitute a recognizable group of persons who are bound together by common rights to the use and security of their properties. As a Non- Nebraskan property owner of property located in the territory of Nebraska the plaintiff, along with other Non-Nebraskan property owners of property located in the territory of Nebraska, constitute a recognizable group of persons who are bound together by common rights to the use and security of their properties. During a significant portion of the time of the events complained of herein, the plaintiff was a party to a lawsuit commenced by plaintiff against the State of Nebraska in response to an alleged eminent domain seizure of his property there. As a property owner-plaintiff in a lawsuit against the State of Nebraska the plaintiff, along with other property owner-plaintiffs in lawsuits against the State of Nebraska, constitute a recognizable group of persons who are bound together by common rights to their personal and property security while they are engaged in due process of law. As a Non-Nebraskan citizen of the United States of America and while as a visitor to the State of Nebraska the plaintiff, along with other Non-Nebraskan citizens of the United States of America and while visitors to the State of Nebraska, constitute a recognizable group of persons who are bound together by common rights as citizens of the United States of America.

6. Defendant Robert Avey is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Robert Avey, acting under the authority of his

office as assistant attorney general of Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy (and its subsequent coverup).

* * * *

8. Defendant Paul L. Douglas is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Paul L. Douglas, acting under the authority of his office as attorney general of Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy

complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

* * * *

12. Defendant Daniel B. Flood is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Daniel B. Flood, acting under the authority of his office as Madison County Attorney and Court appointed appraiser for Madison County, Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska and County of Madison, Nebraska communicated with the other defendants and personally participated in the wrongful conduct complained of herein.

* * * *

14. Defendant David O. Coolidge is, upon information and belief, a citizen of the State of Nebraska. On information and belief, David O. Coolidge, acting under the

authority of his office as State Roads Director of Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska and County of Madison, Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

* * * *

17. Defendant John G. Brinjak is, upon information and belief, a citizen of the State of Nebraska. On information and belief, John G. Brinjak, acting under the authority of his office as Right of Way Manager in the Nebraska Department of Roads and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, held meetings with and communicated with other defendants and

personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

* * * *

20. Defendant Paul Terry is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Paul Terry, acting under authority of his office as Madison County Commission Chairman and Madison County Commissioner of Madison County, Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska and County of Madison, Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

* * * *

23. Defendant Ernest Werner is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Ernest Werner, acting under authority of his office as Madison County Commissioner of Madison County, Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska and County of Madison, Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

* * * *

25. Defendant Marv Harring is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Marv Harring, acting under authority of his office as Negotiator in the Nebraska Department of Roads and under the color and

pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

* * * *

27. Defendant Dennis W. Collins is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Dennis W. Collins, acting under authority of his office as Attorney for the City of Norfolk, Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska and County of Madison, Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts,

assaulting and harassing plaintiff to implement stages of the conspiracy.

* * * *

30. Defendant Randall Needham is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Randall Needham, acting under the authority of his office as chief negotiator in the Nebraska Department of Roads and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

* * * *

35. Defendant Steve Oltmans is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Steve Oltmans, acting under the

authority of his office as Madison County planning commission acting chairman and member of Madison County, Nebraska and under color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska and County of Madison, Nebraska communicated with the other defendants and personally participated in the wrongful conduct complained of herein.

* * * *

37. Defendant R.H. Hogrefe is, upon information and belief, a citizen of the State of Nebraska. On information and belief, R.H. Hogrefe, acting under the authority of his office as Division Administrator in the United States Department of Transportation and under the color and pretense of the codes, regulations, customs and usages of the government of the United States of America, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil

conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy (and its subsequent coverup).

* * * *

39. Defendant Robert Frickel is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Robert Frickel, acting under authority of his office as appraiser in the Nebraska Department of Roads and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

40. Defendant "Joe Doe" whose true name is unknown, is, upon information and belief, a citizen of the State of Nebraska. On

information and belief, Joe Doe, acting under authority of his office as a policeman for the City of Lincoln, Nebraska and under the color and pretense of the statutes, regulations, customs, and usages of the State of Nebraska, the City of Lincoln, and the County of Lancaster communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, assaulting plaintiff with a police jeep while plaintiff was lawfully crossing a street in Lincoln, Nebraska.

41. Defendant "Phil Doe", whose true name is unknown, is, upon information and belief, a citizen of the State of Nebraska, On information and belief, Phil Doe, acting under authority of his office as a policeman for the City of Lincoln, Nebraska and under the color and pretense of the statutes, regulations, customs, and usages of the State of Nebraska, the City of Lincoln, and the

County of Lancaster communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, stopping plaintiff and falsely accusing plaintiff of wrongful conduct while plaintiff was lawfully walking from his car to his place of abode in Lincoln, Nebraska.

42. Defendant "Max Doe" whose true name is unknown, is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Max Doe, acting under authority of his office as a policeman for the City of Lincoln, Nebraska and under the color and pretense of the statutes, regulations, customs, and usages of the State of Nebraska, the City of Lincoln, and the County of Lancaster communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, stopping plaintiff and falsely accusing

plaintiff and menacingly asking plaintiff if he had "ever been arrested" thereby placing plaintiff in fear of imminent arrest without cause.

43. Defendant "John Doe" whose true name is unknown, is, upon information and belief, a citizen of the State of Nebraska. On information and belief, John Doe, acting under authority of his office as a captain of the State of Nebraska police force stationed at Norfolk, Nebraska and under the color and pretense of the statutes, regulations, customs, and usages of the State of Nebraska communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, ignoring plaintiff's request for immediate investigation of wanton destruction of valuable property and the protection of other valuable property endangered by the same forces.

44. Defendant "Paul Doe", whose true name

is unknown, is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Paul Doe, acting under authority of his office as a policeman for the City of Lincoln, Nebraska and under the color and pretense of the statutes, regulations, customs, and usages of the State of Nebraska, the City of Lincoln, and the County of Lancaster communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, approaching plaintiff and falsely accusing plaintiff of having a "suspicious looking" car, thereby placing plaintiff in fear of imminent arrest without cause.

* * * *

46. Defendant T.P. McCarthy is, upon information and belief, a citizen of the State of Nebraska. On information and belief, T.P. McCarthy, acting under the authority of his office as project manager in the

Nebraska Department of Roads and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, held meetings with and communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein by, among other acts, helping mastermind and implement stages of the conspiracy.

47. Defendant "Jack Doe", whose true name is unknown, is, upon information and belief, a citizen of the State of Nebraska. On information and belief, Jack Doe, acting under the authority of his office as custodian of the law library of the District Court of Lancaster County, Nebraska and under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Nebraska, communicated with other defendants and personally participated in the wrongful conduct and civil conspiracy complained of herein.

* * * *

COUNT I

(Conspiracy in violation of 42 U.S.C. Section 1985 (3))

A. The Conspiracy

49. On or about May 8, 1975, the conspiracy manifested its initial stage to the plaintiff when certain of the charter defendants, under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the government of the United States of America, the State of Nebraska, and the County of Madison, Nebraska and under the authority of their offices as officials of these governmental bodies formed a conspiracy with certain unnamed individual conspirators with respect to which each and every defendant was or became a co-conspirator. The purpose of the conspiracy was to (and continues to) deprive plaintiff of the equal protection of the law and of the privileges and immunities granted

to him under the laws and the Constitution of the United States. The conspiracy was (and is) the result of defendants' class based animus towards Madison County, Nebraska property owners whose property would be the object of future acquisition by the State of Nebraska, and because plaintiff was (and is) a member of that class of persons who owns highway fronting property in Madison County, Nebraska and whose property would be the object of the State of Nebraska acquisition. Defendants' purpose was willfully, wrongfully, and maliciously (a) to coerce the plaintiff through the use of force, threats of force, deception, trickery, and deprivation of citizen privileges into abandoning his property rights, (b) to prevent plaintiff from freely exercising his right as self-counsel-plaintiff in a lawsuit against the State of Nebraska, (c) to prevent plaintiff from freely exercising his rights within the State of

Nebraska, (d) to acquire real property and related property rights of the plaintiff for the State of Nebraska and select private property owners in violation of plaintiff's legal and constitutional rights, (e) to prevent plaintiff from freely exercising his property rights, (f) to obstruct plaintiff's free access to the court system of Nebraska, (g) to harass, intimidate, deceive, mislead, manipulate, the plaintiff to deny him his legitimate rights, (h) to regulate the worth of plaintiff's property through the exercise of police power, (i) to deny plaintiff due process of law and equal protection of law, (j) to use the U.S. mails in an attempt to defraud plaintiff of his property and rights sought by the State of Nebraska, (k) to impose upon the plaintiff perpetual wrongful restrictions on his personal and property rights, (l) to achieve the objectives of the highway project adjoining plaintiff's subject property within a predetermined cost figure at plaintiff's expense.

B. Acts in Furtherance of the Conspiracy

* * * *

53. On or about September 26,1975, on information and belief, defendant Oliver Purdy met with other defendants and unnamed co-conspirators at the regional headquarters of the Nebraska Department of Roads located in Norfolk, Nebraska to discuss lands of plaintiff and the intentions of the Nebraska Department of Roads relating to those lands. At this meeting the conspirators arrived at a decision to prevent plaintiff from exercising his legitimate rights to use his lands in a commercial enterprise, for the specific reason to control the value of plaintiff's lands and surrounding lands as part of a scheme to regulate the realestate market in the area of planned Nebraska Department of Roads land acquisitions.

* * * *

55. On October 21,1975, defendants Paul Terry, Harold Seller, Ernest Werner met with other defendants and unnamed co-conspirators to further the objectives of the conspiracy by upholding their Madison County Planning Commission co-conspirators' unanimous recommendation that plaintiff's rezoning request be denied "on the basis that it does not comply with the comprehensive plan and constitutes spot zoning of commercial in an agricultural area". Plaintiff attended this meeting at the Madison County Courthouse in Madison, Nebraska; which was during the Madison County Board's regular meeting. Plaintiff testified at this meeting that defendant Oliver Purdy had stated his true reason for his denial of plaintiff's application to a reporter from the Omaha World Herald; which was that a four lane highway was planned between Madison and Norfolk, Nebraska and if the land of plaintiff is zoned commercial it would cost more for the

taxpayers to purchase.

* * * *

57. On or about December 8,1977, on information and belief, defendant Willard W. Burney wrote, signed, and mailed a letter via the U.S. mails to plaintiff who received it a few days later at his home in New York. In this letter Willard W. Burney stated many falsehoods relating to plaintiff's Nebraska property and the intentions of the State of Nebraska, knowing full well that if plaintiff believed them he would be damaged accordingly. This letter stated deceptions and falsehoods including (a) that the State of Nebraska was interested in acquiring a strip "approximately 30 feet wide"; while the truth is that the acquired strip is more than double that width, (b) that the State of Nebraska was interested in acquiring a "temporary easement" as part of its acquisition; while the truth is that the acquisition stated a "permanent easement", (c) that

the purpose of the easement was to "build a drive into the property" of the plaintiff; while the truth is that the easement was acquired solely for the benefit of a neighbor.

58. On or about February 9, 1978, on information and belief, defendants Marv Harring, Paul L. Douglas, Robert G. Avey, David O. Coolidge, John G. Brinjak, Warren D. Lichty, Jr., R.H. Hogrefe, T.P. McCarthy, Robert Frickel, Randall Needham, and other unnamed co-conspirators met and masterminded activities and documents that were to comprise the conspiracy thereafter; including, but not limited to, the contents of a packet mailed to the plaintiff via the U.S. mails, characterized as a purchase "offer".

59. On or about February 9, 1978, on information and belief, defendant Marv Harring mailed a packet of letters and other items to the plaintiff via the U.S. mails to his home in New York; knowing full well that if plaintiff believed them he would be

damaged accordingly. This packet included, among other items, the following: (a) an 'information' letter from defendant John G. Brinjak making reference to "condemnation" of plaintiff's property in an obvious act of intimidation. (b) a letter from defendant David O. Coolidge titled "A Message From Your Nebraska Department of Roads" containing, among others, the deception "We wish to emphasize that this Department's responsibility to you as the landowner or tenant is limited to the conditions set down in the agreement which we have signed". (c) a pamphlet titled "Highway Progress and Your Property" containing, among others, the deceptions, intimidations, tricks; "Another acquisition method is through the donation of property by civic-minded property owners", and "After the negotiator has explained the requirements of the Department and the offer is extended for these requirements, most people understand and accept the settlement."

(d) a paper titled "Document Continuation Form" containing, among others, deceptions, tricks, and intimidations; "Miscellaneous Damages" with an amount of "25.00", and the statement "for drive purposes". (e) a letter from defendant John G. Brinjak, dated February 9, 1978, in which defendant allegedly undertakes an "offer" for certain of the plaintiff's property and rights and "miscellaneous damages". In this letter John G. Brinjak stated many falsehoods and deceptions, among others; "Recently our real estate appraisers have inspected that property, analyzed the real estate market in the vicinity and are recommending the following payments for land and related damages on which our offer is based as shown below". (f) a paper titled "Easement-Individual (Drive)" containing the deception in its title "Individual", which is contrary to fact. Other deceptions, tricks, include: "...permanent easement for the purpose of the perpetuation of joint, mutual, and free access from and to the right of way including the road or highway to be used by all respective occupants, licensees and owners of properties adjoining and abutting said permanent easement ..." and "... or though it is being used for other purposes, ..." (g) a papers titled "Warranty Deed (Individual - 2 Page)" containing the deceptions, tricks, unconstitutional restrictions and mandates on the plaintiff; outlined in detail by plaintiff in his document titled "Motion for Amendment of Answer" dated September 23, 1978 and filed in the District Court of Madison County, Nebraska under Docket I, Case No. 17811-I relating to a "condemnation" document containing identical statements to the subject paper. (h) a paper titled "State of Nebraska Department of Roads Right of Way Contract (Permanent Easement) containing the deception, among others; "Permanent Easement for Construction purposes,.." (i) a paper titled "State of Nebraska Department of Roads Right of Way Contract" containing the deception, among others, "The representative of the Department of Roads, of the State of Nebraska, .. will be honored by the dept. of Roads, of the State of Nebr." (j) two alleged drawings of the property of the plaintiff sought to be acquired; deceptive on its face in lacking vital information subsequently disovered by the plaintiff. Defendant Marv Harring submitted these documents to the plaintiff, knowing full well that if plaintiff believed them and executed his signature to them he would be irreparably damaged. Plaintiff received these documents within the subject packet a few days after February 9, 1978 via the U.S. mail at his home in New York State.

60. On or about April 19, 1978, on information and belief, defendant C.E. Foslien sent a letter to plaintiff, which plaintiff received shortly thereafter, in response to

a complaint letter to President Carter, President of the United States, that plaintiff had sent relating to the wrongful activities of the defendants engaged in prior to the date of plaintiff's complaint letter to President Carter. In his letter C.E. Foslien acting under color of Division Administrator for the U.S. Department of Transportation, Federal Highway Administration, Region Seven, undertook to deceive, mislead, plaintiff, knowing full well that if plaintiff believed his statements he would be damaged accordingly. The deceptions contained in C.E. Foslien's letter include, among others: "It appears that the price offered falls in line with market prices for this type of land" and "We are confident that your rights will be protected through the legal process, however."

61. On or about May 16, 1978, on information and belief, defendant R.H. Hogrefe sent a letter to Honorable Jacob K. Javits,

United States Senator from New York in response to a complaint letter to Senator Javits that plaintiff had sent relating to the wrongful activities of the defendants engaged in prior to the date of plaintiff's complaint letter to Senator Javits. In his letter R.H. Hogrefe acting under color of Division Administrator for the U.S. Department of Transportation, Federal Highway Administration, Region Seven, undertook to deceive, mislead, Senator Javits and accordingly plaintiff as well. The deceptions contained in R.H. Hogrefe's letter include, among others; "An offer to purchase Mr. Pravda's land based on the appraised value.. .." amd "Since this offer was unacceptable to Mr. Pravda, a condemnation hearing....".

62. On or about May 8,1978, on information and belief, defendants Ransom G. Roman, James C. Hupp, Daniel B. Flood, Eugene C. McFadden, R. Bruce Henning, Walter R. Zich, Mary Ann Wilcox, Eileen Eucker, Richard P.

Garden, Dennis W. Collins, and other unnamed co-conspirators met to further and undertake the "legal" stage of the conspiracy complained of herein. Thereafter they met with vested business and political interests, private benefactors of subject conspiracy and the wrongful seizure of plaintiff's property to decide on the "appraisal" of certain of plaintiff's property and rights. On information and belief, defendants Ransom G. Roman, Daniel B. Flood, James C. Hupp, R. Bruce Henning, thereupon produced a document titled "Return of Appraisers", designed to wrongfully deprive plaintiff of certain of his property and rights located in the State of Nebraska. (Subsequently, as part of the coverup of this wrongful act and the conspiracy, plaintiff was accused by defendant Robert Avey of "failing" to appear). In this document were included the deceptions, among others, that: "... and did hear all parties interested therein in reference to the amount of damages sustained while we were so inspecting and viewing the property ..."

63. On the morning of July 13, 1978, plaintiff entered the Madison County Courthouse located a few miles south of his property on highway 81 near Madison, Nebraska and entered the office of the clerk of the Madison County Court. There, on information and belief, he was received by defendant Mary Ann Wilcox to whom he identified himself as the appellant who had filed an appeal notice by mail relating to the condemnation of his property. Mary Ann Wilcox, acting under the colors of her office as Associate County Judge for Madison County, responded that they had not answered plaintiff's letter and notice of appeal since they did not think he "was serious". Mary Ann Wilcox engaged in these wrongful activities, among others, against plaintiff, knowing full well that if plaintiff believed her he would be damaged accordingly.

64. On or about July 20, 1978, plaintiff telephoned Eugene C. McFadden; on information and belief, defendant then answered and acknowledged his identity and plaintiff identified himself as the appellant who had filed an appeal in the District Court of Madison County, Nebraska who had been referred to Eugene C. McFadden by a clerk of subject court to obtain further information about court rules and procedure. In response to plaintiff's question about what he must do to bring the case to trial the defendant said "You don't have to do anything or you can do whatever you want". Eugene C. McFadden, acting under the colors of his office as District Judge of the District Court of Madison County, Nebraska engaged in these wrongful activities, among others, knowing full well that if plaintiff believed him he would be damaged accordingly.

65. On or about August 9, 1978, plaintiff rented a room in Lincoln, Nebraska located

at 1804 F St. as a temporary abode while he availed himself of the law library of the District Court of Lancaster County, Nebraska for the purpose of studying the laws relating activities of parties associated with the seizure of his property and his litigation with the State of Nebraska. Within an hour of securing this room plaintiff observed a number of police officers carefully examining his car. A few hours later, while plaintiff was lawfully walking from his car to his place of abode and in proximity to both his car and abode, defendant Phil Doe, wearing official uniform, insignia, and badge of the Lincoln police department hailed plaintiff and asked for identification, proceeded into his police vehicle with plaintiff's driver's license that plaintiff provided, then returned to plaintiff's proximity and stated to him " The reason I'm stopping you is that you were seen last night running from a park, disappearing into your car and driving off." In response, plaintiff denied the accusation. Soon thereafter defendant Paul Doe arrived on the scene and walked over to plaintiff's car and looking in stated ".... this looks suspicious ....".

66. On or about August 10, 1978, the day after plaintiff's encounter with the police officers (Phil Doe, Paul Doe), plaintiff went to the subject law library as planned (as he stated he would do; to the police officers on the previous day) and found the doors locked; barring his entrance. On inquiry at the district court office nearby, plaintiff was told that the law library is always open during these hours and that no one had ever known them to be locked. Then plaintiff went to defendant Jack Doe, acting as custodian of the law library, who refused to admit plaintiff to the library. Upon repeated demand by plaintiff that the law library is a public facility and on order

from a staff member of the court defendant Jack Doe finally admitted plaintiff to use the library and unlocked the door.

67. On or about August 12, 1978, plaintiff was lawfully walking across a street in a crosswalk just north of the Capitol building of the State of Nebraska in Lincoln, Nebraska when, without warning, defendant Joe Doe, operating a jeep type police vehicle came at a fast rate of speed and drove directly across plaintiff's path of walk causing grave risk of mortal injury to plaintiff that placed plaintiff in a permanent state of fear and fright for his well-being while in the State of Nebraska.

68. On or about August 23, 1978, plaintiff was lawfully driving his car on a Lincoln, Nebraska street a few blocks from his abode and returning to his abode in Lincoln when he was stopped by defendant Max Doe, wearing official uniform, insignia, and badge of the Lincoln police department

made false accusations against plaintiff and menacingly asked plaintiff if he had "ever been arrested".

69. On or about the date of September 1, 1978 on information and belief, plaintiff held a telephone conversation with defendant John Doe who described himself as a captain of the State of Nebraska police force stationed at Norfolk, Nebraska. Defendant John Doe acknowledged knowledge of plaintiff's property and its seizure by the State of Nebraska and in particular had knowledge that an improvement sign on that property had been broken down and that valuable towers and lamposts were not his concern since the state "didn't want those items". Plaintiff had called to request protection for those items of improvement on the property since the matter was in court and would be evidence for a jury to appraise.

70. On September 25, 1978, defendant Dennis W. Collins and plaintiff were present

just outside the open doorways of the courtroom of the County Court of Madison County, Norfolk Division at 125 South 4th Street, Norfolk, Nebraska when Dennis W. Collins turned as he entered the courtroom and stated to plaintiff; "We heard about your condemnation proceedings down in Madison. Its the joke of the District Court." Defendant Dennis W. Collins made this statement in full, loud voice, deliberately, and in full attendance of people within the courtroom including among others, County Judge James J. Deegan, presiding, a number of City of Norfolk policemen, court spectators and litigants.

* * * *

72. On November 7, 1979, defendant Richard P. Garden, on information and belief, acting as District Judge for the District Court of Madison County, Nebraska executed a court order that plaintiff attend a "Pre-Trial Conference" and "be conversant with issues

and background of the case", and acknowledging that "In the Pravda case, Mr. Pravda shall appear "at" the Pre-Trial conference since he is acting as his own attorney."

73. On December 7, 1979, defendants Richard P. Garden, Robert G. Avey, were present at the "pre-trial conference" held in the District Court Chambers at the Madison County Courthouse in Madison, Nebraska; along with plaintiff and an unnamed lady acting as a secretary. Plaintiff immediately asked Judge Garden's permission to record the proceedings and defendant Richard P. Garden said that the lady would record the proceedings. Subsequently, when plaintiff discovered that the lady was not recording the proceedings and questioned the Judge's deception, the Judge responded that "she will record what I tell her to record". As the discussion proceeded and it became apparent that Richard P. Garden was himself not "conversant with issues", he defended his

position by stating that he had not read the case since he had "inherited it" and had not the time to do so. Soon thereafter, defendant Judge Richard P. Garden challenged plaintiff's competence to represent himself as an attorney at the trial. Immediate hardy laughter between defendants while plaintiff stepped into a nearby room with secretary to give her his address demonstrated the confidence of the conspirators in the success of their scheme. (In a protest against the absence of a viable "due process" plaintiff filed his "Self-Counsel-Plaintiff's Response to Pre-Trial Conference" on December 18, 1979)

74. On November 23, 1979, plaintiff visited his subject property just north of Madison, Nebraska, and there discovered that towers that he had fixed to his land as permanent improvements when he first purchased it were now dumped across the entrance area of his land. He immediately proceeded to

the Madison County Courthouse where chief sheriff's deputy Bernie Stybe recorded plaintiff's complaint that someone had dumped the towers onto his property without his permission. (Evidence shows that these towers were seized by State of Nebraska forces as part of their "condemnation" of that land on which they were fixed). Chief deputy Stybe then accompanied plaintiff to the site of the towers dumping and took several photographs of the dumped towers from several different angles. Deputy Stybe then gave plaintiff his assurances that he would inform the Sheriff, defendant Marlin Landanger, about the dumping of the towers and further action would be up to the sheriff. Subsequently, plaintiff's efforts to contact defendant Marlin Landanger failed and his letter to him was never answered. At this time plaintiff also discovered the consequences of the highway construction adjoining his property which were not included in the "condemnation documents" including use of seized property for an additional access for the sole benefit of his northerly neighbor, while he, himself, would not be able to use that access to his own land; according to the seizure documents. Other damages were also apparent at this time.

75. On March 6, 1980 plaintiff succumbed to the unrelenting, overwhelming acts of injustice of this conspiracy to deny him his constitutional rights under the guise of due process as his health failed under the stress of the awareness that the conspirators would move to any and all measures to deny him his constitutional rights. With considerable suffering and effort plaintiff sent a Western Union "Mailgram" to defendant Richard Garden at District Court, Madison, Nebraska 68748, for personal delivery only, and worded as follows; "RE Docket I Case # 17811-I Frank Pravda, Plaintiff vs. State of Nebraska Dept. of Roads, Defendant.

Special Notice Plaintiff is too ill to proceed explaination will be forthcoming as soon as health permits hopefully in a few weeks. Peace of mind and body now essential Please do not disturb. Thank you very much. Submitted on this 6th day of March 1980 Frank Pravda Self Counsel Plaintiff." Plaintiff sent this "Mailgram" from his home in New York. The Western Union office at 1818 Dodge St. Omaha Ne 68102 sent an acknowledgment mailgram to plaintiff stating that defendant Richard Garden had received the "telegram" March 6, 1980 at 1226 PM. CST.

76. On March 21, 1980 plaintiff, after many days of effort and with considerable suffering creating a document titled "Special Notice Notice IV", submitted an explaination to the court as his "Notice IV" sent via the U.S. mails to defendants Richard Garden and Robert Avey and the Madison County District Court at Madison, Nebraska. In this document plaintiff

outlined acts described in the present complaint and stated further "II: Plaintiff believes that these government actions had a very destructive accumulative effect ..... on his health. He believes that his health and well being have been seized by the State of Nebraska; ....".

77. On September 15, 1981, defendant Robert G. Avey, on information and belief, wrote, signed, and mailed a letter via the U.S. mails to Honorable Daniel Patrick Moynihan, United States Senator from New York in response to a complaint letter plaintiff had sent to Senator Moynihan relating to the wrongful activities of the conspirators. In his letter, Robert G. Avey acting under the color of Assistant Attorney General of Nebraska undertook to deceive, mislead, Senator Moynihan in an effort to "coverup" the wrongful acts of the conspirators. In his letter defendant Robert G. Avey states, among other falsehoods, that

".... Mr. Pravda, after being properly noticed according to law, failed to appear for the hearing in the County Court of Madison County, Nebraska ..." while the truth is that plaintiff was never required to appear at the subject hearing. Limitations of time and space in this complaint preclude reciting the multitude of deceptions, obstructions, tricks, and other wrongful acts against the plaintiff administered under the guise of due process and justice to the plaintiff during the subject court proceedings, or the "legal" phase or stage of the conspiracy.

78. Plaintiff lives in constant fear and apprehension that he cannot be secure in his person and property in the State of Nebraska, and that he will once again be subjected to the ordeals and wrongful conduct complained of herein should he again enter the State of Nebraska to visit or conduct legitimate activities to secure his property rights.

79. Plaintiff has no adequate remedy at aw.

80. The conduct of defendants is a wrongul violation of the Civil Roghts Act, itle 42 of the United States Code, Section 985 (3).

* * * *

COUNT II

Conspiracy in violation of 42 U.S.C. ection 1985 (2))

81. Plaintiff hereby incorporates the llegations of paragraphs 1-9, 11, 12, 14-19, 2, 25, 27, 30, 32-34, 36, 37, 39-80 as if he same were here set forth verbatim.

82. On December 7, 1979, as a further act n furtherance of the conspiracy, defendants ichard P. Garden and Robert G. Avey engaged n intimidation of the plaintiff, who at hat time was a party in the District Court f Madison County, Nebraska, by making ertain representations regarding the merits f evidence and the testimony to be

presented by plaintiff at the forthcoming trial in the subject Court constituting a pre-trial trial and transfixing "due process" in "do nothing". Defendant Richard P. Garden stated that he would tell the jury that plaintiff's land was zoned agricultural; a matter to be established at the forthcoming trial. These and other representations that the aforementioned defendants knew or had reason to know were untrue and which representations said defendantants knew would cause damage to the plaintiff, including a representation that plaintiff was attempting the impossible.

83. The aforementioned facts constitute a violation of the Civil Rights Act, Title 42 of the United States Code, Section 1985 (2)).

* * * *

COUNT III

(Violation of 42 U.S.C. Section 1983; Constitution of the United States, Amendments IV, V, XIV.)

84. Plaintiff hereby incorporates the allegations of paragraphs 1-83 as if the same were here set forth verbatim.

85. On March 31, 1978, on information and belief, as a further act in furtherance of the conspiracy Robert G. Avey, David O. Coolidge, John G. Brinjak, Warren D. Lichty, Jr., and other unknown defendants created, conceived, and filed a document titled "Notice to Landowners" before the County Judge of Madison County, Nebraska, which document contained the provision; "For the purpose of this instrument, the 10 vehicle movements per hour will be measured and determined by the following procedure: upon its own determination or whenever traffic congestion occurs at a restricted access, the department may make a traffic count,

such count to be for a minimum 8-hour period during the hours of 7 AM to 9 AM, 10 AM to 1 PM, 3 PM to 6 PM, and, in addition, for any other peak hours peculiar to the highway, the average hourly traffic will be determined by dividing the total number of vehicle movements recorded during the time periods by the length of the time periods in hours, in the event any of the peak hour vehicle counts exceeds the average by a factor of 1.5, the higher figure may be used to determine the number of vehicle movements for the access point." and "provided that the grantor does covenant and agree that should he or his successors in title fail and refuse to keep or perform the provisions limiting traffic in such access to 10 vehicle movements per hour, by exceeding this amount on five or more separate occasions within a continuous three-month period, he, or his successors in title, will be considered in violation of the terms of this instrument and subject to appropriate proceedings at law or in equity for its enforcement" as a punative provision, which, in view of the obvious incomprehensible vehicle movement restriction; constitutes a perpetual violation of plaintiff's right to be secure in his person and property.

86. The aforementioned facts constitute a violation of the Civil Rights Act, Title 42 of the United States Code, Section 1983 ; and of the Constitution of the United States, Amendments IV, V, XIV.

* * * *

COUNT IV

(Statutory Conspiracy)

87. Plaintiff hereby incorporates the allegations of paragraphs 1-86 as if the same were here set forth verbatim.

88. On or about February 9, 1978, on information and belief, as a further act in furtherance of the conspiracy Robert G. Avey, David O. Coolidge, John G. Brinjak, Warren

D. Lichty, Jr., Marv Harring and other unknown defendants created, conceived, signed and mailed to the plaintiff papers and literature to deceive, mislead, intimidate, trick plaintiff relating to the intentions of the State of Nebraska in its acquisition of plaintiff's property, and relating to plaintiff's legal rights under the "eminent domain laws" designed to lull plaintiff into a false sense of security and to further the objectives of the conspiracy. Plaintiff received these papers via the U.S. mail at his home in New York.

89. The aforementioned facts constitute a violation of Section 105 of the Code of New York; and of Section 28-202 of the Code of Nebraska, 1977.

* * * *

COUNT V

(Violation of 18 U.S.C. Section 1341)

90. Plaintiff hereby incorporates the allegations of paragraphs 1-89 as if the

same were here set forth verbatim.

91. On or about February 9, 1978, on information and belief, as a further act in furtherance of the conspiracy Robert G. Avey, David O. Coolidge, John G. Brinjak, Warren D. Lichty, Jr., Marv Harring and other unknown defendants conceived, created, and executed a scheme for obtaining an executed deed, and accompanying forms, from plaintiff under the pretense of having submitted to plaintiff a legitimate offer to secure certain of his property and rights described in subject deed; which was mailed and delivered to plaintiff via the U.S. Mails at his home in New York. As part of that scheme the named defendants caused to be signed, sealed, and delivered to plaintiff a variety of papers, and literature mailed along with the subject unsigned deed; via the U.S. Mails as a means of intimidating, deceiving, misleading, and tricking plaintiff into executing subject deed and accompanying unsigned forms;

to secure property and rights of plaintiff in the State of Nebraska.

92. The aforementioned facts constitute a violation of Title 18 of the United States Code, Section 1341.

* * * *

COUNT VI

(Invasion of Privacy)

93. Plaintiff hereby incorporates the allegations of paragraphs 1-92 as if the same were here set forth verbatim.

94. Robert G. Avey, R. Bruce Henning, Paul L. Douglas, Eileen Eucker, Oliver Purdy, Willard W. Burney, Art Boettcher, Daniel B. Flood, David O. Coolidge, Harold Seller, Richard P. Garden, John G. Brinjak, Warren D. Lichty, Jr., Mary Ann Wilcox, Paul Terry, Joe Sullivan, Walter R. Zich, Ernest Werner, Robert Adkins, Marv Harring, George Tannehill, Dennis W. Collins, Jim Winkelbauer, Noma Shinrock, Randall Needham, Lyle Herbolsheimer, Eugene C. McFadden,

C.E. Foslien, Steve Oltmans, Ransom G. Roman, Marlin Landanger, R.H. Hogrefe, F.H. Zimmerman, Robert Frickel, Joe Doe, Phil Doe, Max Doe, John Doe, Paul Doe, James C. Hupp, T.P. McCarthy, Jack Doe, and other unknown defendants, did, by their actions, invade the privacy of the plaintiff.

95. This conduct was malicious, in violation of the rights of the plaintiff and of the laws of the State of New York and Nebraska and constitutes the tort of invasion of privacy.

* * * *

COUNT VII

(Intentional Infliction of Emotional Distress)

96. Plaintiff hereby incorporates the allegations of paragraphs 1-95 as if the same were here set forth verbatim.

97. Robert G. Avey, R. Bruce Henning, Paul L. Douglas, Eileen Eucker, Oliver Purdy, Willard W. Burney, Art Boettcher, Daniel B.

Flood. David O. Coolidge, Harold Seller, Richard P. Garden, John G. Brinjak, Warren D. Lichty, Jr., Mary Ann Wilcox, Paul Terry, Joe Sullivan, Walter R. Zich, Ernest Werner, Robert Adkins, Marv Harring, George Tannehill, Dennis W. Collins, Jim Winkelbauer, Noma Shinrock, Randall Needham, Lyle Herbolsheimer, Eugene C. McFadden, C.E. Foslien, Steve Oltmans, Ransom G. Roman, Marlin Landanger, R.H. Hogrefe, F.H. Zimmerman, Robert Frickel, Joe Doe, Phil Doe, Max Doe, John Doe, Paul Doe, James C. Hupp, T.P. McCarthy, Jack Doe, and other unknown defendants' conduct described above was extreme, outrageous, and utterly intolerable in a civilized society. By such conduct the named defendants conspired to and did intentionally cause severe emotional distress to the plaintiff with the resultant nervous shock being a permanent injury to his health.

98. This conduct was malicious, in

violation of the rights of the plaintiff and of the laws of the States of New York and Nebraska, and constitutes the tort of intentional infliction of severe emotional distress.

* * * *

Wherefore, the plaintiff prays for judgement as set forth with particularity under each count hereinabove, together with interest as provided by law, the costs of this action, reasonable attorneys fees as provided by 42 U.S.C. Section 1988 , and any further relief which the Court may deem just and proper.

Respectfully submitted,
/s/ Frank Pravda
Frank Pravda, Plaintiff

Mailing Address: Route 1, Box 150
Stillwater, New York 12170

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
Dated: September 2,1982

NO. 82-CV-378

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT G. AVEY, R. BRUCE HENNING, Et Al,

Defendants.

TRANSCRIPT

PROCEEDINGS in the above-entitled matter, Defendants' Motion to Dismiss for Improper Venue, came on before the United States District Court, Northern District of New York, United States Post Office and Courthouse, Albany, New York, on July 16, 1982, before the Honorable Roger J. Miner, United States District Judge, presiding.

* * * *

(3) THE CLERK: Frank Pravda against Robert G. Avey, R. Bruce Henning, et al, 82-CV-378.

MR. HARPER: I am Royce N. Harper, of counsel. . . . Basically, your Honor, this is a 1983 action brought by the New York plaintiff for an alleged denial of civil rights resulting from a condemnation for the taking of land in Nebraska.

THE COURT: Has the land actually been (4) taken?

MR. HARPER: Yes, your Honor.

THE COURT: It has already been taken, all right. What procedures have you implemented to pay for the land?

MR. HARPER: Yes, your Honor.

THE COURT: I said, what procedures have you taken for payment?

MR. HARPER: In Nebraska, in condemnation statutes for public taking it provides for a good faith offer, that is, after study, noticed to the landowner, and then the local county judge is asked to appoint a board of appraisers. The appraisers go out and there is notice to the andowner, and from that he has a right to ppeal to the State District Court. This ase got to the point of the State District ourt.

Now, with the Court's permission I do ave the file, certified by the Court, which would like to --

THE COURT: Tell me what happened. Was hat case heard in that court?

MR. HARPER: The board of appraisers et, and an award was returned, and plain-iff was noticed. Then the plaintiff acting ro se sent to the board a notice of appeal, o the County Court.

5) It was docketed in the District Court, nd then for a period of several months to year, notices from the District Court went ut and the plaintiff filed interrogatories nd so forth. It was set down for a trial. he first trial was to be a brief trial for hether or not there was a good faith offer ade by the State. That was April 2,1979

and the plaintiff was notified, and did not appear, did not appear and so it was held for the State there was a good faith offer.

The 28th of April of 1979 a trial was set. All parties were there and the witnesses were there and the plaintiff did not appear, although he had notice. The record will indicate that he did not ask for any continuance prior to the trial.

Now, the defense, of course, is that there was due process and there was no violation of the constitutional rights on the merits.

THE COURT: What is before me now is your motion on venue, and get to that, and the statute seems to provide that the action must be brought where all of the defendants reside, or where the claim arose, and that seems very clear.

MR. HARPER: That is right, your Honor.

THE COURT: These defendants are all Nebraska defendants, is that right?

MR. HARPER: That is correct, your Honor.

THE COURT: And where did the claim arise?

MR. HARPER: Substantially everything was in Nebraska. It is a Nebraska condemnation and the defendants were all there and the only incidental or partial occurrence that could have occurred in New York was the mailing to the plaintiff in New York, the mailing of the notices and so forth, which he returned. Other than that --

THE COURT: Was he at all times a New York resident?

MR. HARPER: I think so, yes.

Our point is that where there is a jurisdiction that is not founded solely on diversity, but rather on constitutional matters, which he alleges, that the action must be brought where all of the defendants reside or where the cause of action arose.

THE COURT: All right, thank you.

Mr. Pravda.

MR. PRAVDA: Your Honor, the attorney for the defendants failed to state the fact that I have been critically ill and I sent a telegram to the judge stating this fact. I was not able to proceed at all.

Here I have an affidavit, if I may of (7) defense, and I present you with the fact (offering to the Court) and I am still not fully recovered. And this illness was not due to the condemnation, and just being in court was not the basis of that illness. It was based on other acts involved in this thing.

I would like to present my argument. There are many cases for dismissal and they are overwhelming, as the attorneys for the defendant argue, and there is no reason to argue further, yet they do. They admit to other standards.

The objectives of the defendant just be cited in the context of the complaint and as they arise out of this motion.

The substance of the complaint, and the experience of the process servers, demonstrate that they wish to perpetuate the disadvantage that the plaintiff has experienced and thus handicap him in his case by destroying his mental and well being completely.

THE COURT: I am only concerned with one issue in this case, and there is only one issue before me now, not whether you are right or wrong, or whether you are entitled to recover from these people, and not whether you have a good case or not, but I am concerned only with the very narrow issue on this motion and that is the issue of venue.

(8) MR. PRAVDA: I understand that.

THE COURT: These defendants all reside in Nebraska, is that correct?

* * * *

THE COURT: Well, your affidavit of service will indicate that they were served in Nebraska, and I guess that that is pretty good proof.

MR. PRAVDA: Well, all of the defendants were not served.

THE COURT: That is right, but the ones who are served were making this motion.

MR. PRAVDA: Okay.

THE COURT: So, before me is an indication that all of the defendants resided in Nebraska.

MR. PRAVDA: Okay.

If, indeed, the condemnation of the plaintiff's land took place in Nebraska as the District Attorney argues, they are then asking this Court to ignore all of the other acts and issues contained in the complaint. There is evidence in this case that will demonstrate that as the plaintiff sat at home reading the literature sent to him through either the (9) U.S. mails by certain defendants he was led to believe that the property had already been seized, and that he had little other choice than to submit to the justice, quote, the automatic justice of the eminent domain rule and despite that thing, that act, these acts were being done outside of those laws that harmed the plaintiff.

...The eminent domain laws do not permit a challenge to the substance of the condemnation documents which contain a quasi-contract with the provisions that the plaintiff was subjected to and continues to be subjected, to the best of his knowledge, to a law without comprehension, violating his rights to be secure in his person and property in perpetuity.

Now, as far as the other --

THE COURT: That is enough for the proceeding today.

MR. PRAVDA: I have other information.

THE COURT: You may submit it in writing to the Court. You are not addressing the issue to which I have asked you to address yourself. You are talking about a general discussion of the case that you have and I don't want to go into that today. I want to know about this venue question.

MR. PRAVDA: I am responding to the brief that they submitted in their motion, and this is all in response to their motion, if I may?

THE COURT: It is not in response to the venue.

MR. PRAVDA: Yes, and that is what I have -- what I have here, in response to the venue.

This matter of the plaintiff was in the territory of Nebraska. It is something that will lead to further continuation of this conspiracy, which is evidenced by the experience of the process server.

Now, in the interest of justice, the venue has to be at another location other than Nebraska, and even for this motion to dismiss --

THE COURT: We don't dismiss these cases on anything but the law that is in front of us, and I told you that there are two --

MR. PRAVDA: This law is justice that is involved here, that overrides -- that is the overriding issue, otherwise justice will not be --

THE COURT: What Federal District Court has jurisdiction of this matter, Mr. Harper?

(11) MR. HARPER: The United States District Court for the District of Nebraska.

THE COURT: A single district in Nebraska?

MR. HARPER: One district.

MR. PRAVDA: What they are asking is I should go back there and be subject to further action involved in this conspiracy.

THE COURT: They are asking that it be dismissed, that is what they are asking for, and in the alternative that it be returned to Nebraska.

MR. PRAVDA: And in any case my opportunity for justice has been destroyed, which was their intention, and this policy of theirs continues unabated against people who are from another state, and a class of citizens that reside in another state.

THE COURT: Not in the United States District Court. We are talking about a United States District Court in Nebraska, and not about a County Court that you are complaining about.

MR. PRAVDA: I understand that. But they have police powers there, and police officers, and police officers follow you around and block you, and I have no power when I am in another state to run around and get -- I am only a sole, lone individual citizen, (12) and I am supposed to, every time a police officer stops me and is harassing me, and all kinds of injustices while I am in court, ...

THE COURT: Police officers don't stop you in the Federal Court, do they?

MR. PRAVDA: I am talking out on the street, and I have to proceed in freedom before a court, and my freedom is out on the streets, to travel around the state.

THE COURT: Here is my decision in this matter.

I find and conclude that the defendants are residents of the State of Nebraska and that the claim set forth in the complaint arose in the State of Nebraska.

Therefore, I am going to transfer the venue of this case to the United States District Court for the District of Nebraska.

The motion by the defendants to dismiss this action is denied, and their motion to change the venue in the alternative must also be denied for failure to specify any basis for the transfer of venue.

So the order that you will submit, Mr.

Harper will report that the Court sua sponte (13) transfers this matter to the District Court, United States District Court for the District of Nebraska based upon the venue provisions and subject to an order to that effect.

* * * *

(14) CERTIFICATION

I, HIRAM F. SHEFFER, Official Court Reporter for the United States District Court, in and for the Northern District of New York, do certify this to be a true and accurate transcript of the stenographic record of the foregoing taken at the time and place noted in the heading hereof.

/s/ Hiram F. Sheffer

HIRAM F. SHEFFER
Official Court Reporter
United States District Court
Northern District of New York

Albany, New York

September 2,1982

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: December 16, 1983

NO. 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G.B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y. and EDWARD POWERS,

Defendants.

AFFIDAVIT

STATE OF NEW YORK)
) SS:
COUNTY OF WARREN)

ROLF ONDECK RONNING, being duly sworn,

deposes and says:

I am an attorney at law duly licensed to practice in the State of New York and before this Court and I am the attorney of record for FRANK PRAVDA, plaintiff in the above entitled matter. I make this affidavit in support of my motion to withdraw from the above entitled action.

In or about April of 1983, plaintiff retained my office to appeal in his behalf with regard to the above matter which he had initiated pro se. At that time a retainer in the amount of $1,000 was received from plaintiff. In or about June of 1983 an additional $1,000 fee was received from plaintiff, and in or about September of 1983, plaintiff paid an additional $1,000.00 to my office.

From April of 1983 to the present, my office has been involved in extensive investigation and summons service, numerous motions have been made by various defendants;

amended pleadings have had to be prepared and served on plaintiff's behalf, requiring an extensive amount of time by my office in representing plaintiff in this action.

This has been made especially difficult because plaintiff has been uncooperative in communicating with our office, has made himself unavailable for personal or telephone consultation and has restricted communication.to the U.S. Mails. Plaintiff's lack of cooperation and our inability to effectively communicate with plaintiff has further complicated, prolonged and delayed each aspect of this case. Plaintiff's conduct has rendered it unreasonably difficult for me to carry out my employment effectively.

This case is, by its very nature, extremely complicated and time-consuming. Pretrial proceedings have been extensive, investigative work and summons service has been inordinately time consuming, and now that we have served an Amended Complaint on plaintiff's behalf, I am sure that various defendants will once more move for various forms of relief, which will again necessitate our effective communication with plaintiff in order to protect his interests. Discovery proceedings will also be extensive, complicated and lengthy. Plaintiff will not allow any personal conferences or telephone conversations, and upon information and belief, is of the opinion that this refusal to adequately and efficaciously communicate with my office does not restrain our representation of him and so he has not consented to our withdrawl. We disagree. Our inability to effectively or productively communicate with plaintiff makes representation of him not only extremely difficult, but works to the detriment of plaintiff's action. Plaintiff's best interests cannot be served by our continued representation of him in this action in this manner.

As of our last billing date on August 14, 1983, this office billed plaintiff for a total amount of $1814,50, and since said date we have expended an additional thirty-two (32) hours in representing plaintiff in this case. Our billing rate is $50.00 per hour and accordingly, our bill for services rendered to date is $3414.50, of which plaintiff has paid the sum of $3,000. In order for me to proceed further, I would need to bill plaintiff for the balance of fees due to date, plus an additional retainer for services to be rendered. In all good conscience, we do not feel that we can adequately represent plaintiff in this action any longer and, therefore, cannot justify requesting further fees from plaintiff. Rather we request permission to withdraw as plaintiff's counsel.

My law firm is a small one. I am the only attorney and I have one part-time law clerk and a secretary. My office has not neglected plaintiff's matter in any manner and has diligently completed all necessary pleadings, amended pleadings, responsive motion papers, etc., within the prescribed time limits, but we have found this case to be immensely more complex and time-consumming than first appeared when plaintiff initially retained us, especially in view of plaintiff's conduct and lack of meaningful communication which renderes it unreasonably difficult for us to proceed with our employment effectively. We were unable to reasonably foresee the complicated and protracted nature of case at the time we undertook same, but after extensive investigation and many hours of work have discovered that the time which needs to be devoted to this case is far beyond the ability of a small firm such as ours.

Our withdrawl as counsel will not prejudice plaintiff. There are no immediate time constraints on plaintiff and he will have sufficient time to obtain new counsel.

Plaintiff's rights will not be jeopardized by our withdrawl as counsel. We will cooperate in every way possible in the transition to new counsel.

WHEREFORE, I respectfully request that permission be granted for the withdrawl of my firm as plaintiff's legal counsel in the above entitled action, and for such other and further relief as may be just and proper.

/s/ Rolf Ondeck Ronning

ROLF ONDECK RONNING

Sworn to before me this
8th day of December, 1983.

/s/ Karen Sideri

KAREN SIDERI
NOTARY PUBLIC State of New York
Qualified in Washington Co.
Commission Expires March 30th, 1985

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Filed: January 6,1984

NO: 82-CV-635

FRANK PRAVDA,

Plaintiff,

-against-

ROBERT HALL, SR., JACK DAKE,
ROBERT ABRAMS, JAMES R. NICHOLS, SR.,
JOHN D. HALL, JR., J.J. BARGOUR,
DAVID A. WAIT, MAX HUGHES,
JOSEPH COOPER, STATE OF NEW YORK,
ROBERT CHAUVIN, JOHN HALL, SR.,
G. B. VAN HEUSEN, COUNTY OF SARATOGA, N.Y.,
AL CUCCICO, JAMES BOWEN,
TOWN OF MALTA, N.Y., and EDWARD POWERS,

Defendants.

EXHIBIT E

ROLF ONDECK RONNING, ATTORNEY AT LAW
283 Canada Street Tel: (518)668-3200
Lake George, New York 12845

NO. 000251

Date 6/30 1983

Received From Frank Pravda

The Sum of One Thousand Dollars $1000.00

For Pravda v. Hall Pravda v. Avey X Check

Amount of Account $

Amount Paid $

Balance Due $

Thank

You!

By /s/ Amy E. Olsen

THE CONSTITUTION
OF THE
UNITED STATES OF AMERICA

(Pertinent Text)

ARTICLE IV

SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Malitia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATUTES
OF THE
UNITED STATES OF AMERICA
(UNITED STATES CODE)

Title 42, Section 1985 (Pertinent Text)

(2) If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to be him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding,

hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen

who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

Title 42, Section 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Title 28 Section 1343 (Pertinent Text)

(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to

his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

Title 28 Section 1292 (Pertinent Text)

(a) The courts of appeals shall have jurisdiction of appeals from: (1) Interlocutory orders of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, or of the judges thereof, granting, continuing, modifying, refusing or disolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court;

(b) When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after entry of the order: Provided, however, That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

AFFIDAVIT OF SERVICE

State of New Jersey)
) SS:
County of Mercer)

Frank Pravda, being duly sworn, deposes and says:

I am the Petitioner in this action and do hereby certify, in accordance with Rule 28 of the Rules of the Supreme Court of the United States, that I have mailed, on January 15, 1985, three copies of this Petition for Writ of Certiorari to the Supreme Court of the United States to each Respondent separately represented and all parties required to be served have been served on January 15, 1985, which is within the prescribed time, by mailing via the U.S. Postal Service by certified mail with return receipt requested, by depositing them in a United States post office with first-class postage prepaid and addressed to their counsels of record at their post office addresses as follows:

Robert J. Armstrong, 101 Columbia Street, Albany, N.Y. 12210, counsel for Respondents Robert Hall, Sr. and John Hall, Sr..

Margaret C. Lynch, State Bank Building, 75 State Street, P.O. Box 1590, Albany, N.Y. 12201; counsel for Respondents Fred Dake (sued as Jack Dake); David A. Wait; Robert Chauvin; County of Saratoga, N.Y.; James Bowen; J.J. Bargour; Howard Hughes (sued as Max Hughes); Al Cuccico.

David B. Roberts, State of New York Department of Law, The Capitol, Albany, N.Y. 12224; counsel for Respondents Robert Abrams, Joseph Cooper, State of New York, G.B. Van Heusen, Edward Powers.

David H. Pentkowski, P.O. Box 425-Ushers Road, Clifton Park, N.Y. 12065; counsel for Respondents James R. Nichols, Sr.; Town of Malta, N.Y..

Peter L. Coseo, 16 Lake Avenue, P.O. Box

587, Saratoga Springs, N.Y. 12866; counsel for Respondent John D. Hall, Jr..

The names and addresses of the parties served with the required copies of this petition are:

Robert Hall, Sr., Seaman Hill Road,
Town of Saratoga, New York.

Fred Dake (sued as Jack Dake), Locust
Grove Road, Town of Greenfield, New
York.

Robert Abrams, State Capitol Building,
Albany, New York

James R. Nichols, Sr., Highway 9P,
Town of Malta, New York

John D. Hall, Jr., Fitch Road, Town of
Saratoga, New York

J.J. Bargour, Sheriff's Department of
the County of Saratoga, Municipal
Center, Ballston Spa, New York.

David A. Wait, 8 Madison Avenue,
Saratoga Springs, New York.

Howard Hughes (sued as Max Hughes),
Corinth, New York.

Joseph Cooper, State Capitol Building,
Albany, New York.

State of New York, State Capitol
Building, Albany, New York.

Robert Chauvin, Key Bank Building,
Junction of Routes 9 and 146,
Clifton Park, New York.

John Hall, Sr., Fitch Road, Town of
Saratoga, New York.

G.B. Van Heusen, Malta State Police
Station, Highway 9, Malta, New York.

County of Saratoga, N.Y., County
Office Building, 40 McMaster Street,
Ballston Spa, New York.

Al Cuccico, Sheriff's Department of
the County of Saratoga, Municipal
Center, Ballston Spa, New York.

James Bowen, Locust Grove Road,
Town of Greenfield, New York.

Town of Malta, N.Y., Malta Town Hall,
Highway 9, Malta, New York.

Edward Powers, Malta State Police
Station, Highway 9, Malta, New York.

Frank Pravda

Frank Pravda, Petitioner

State of New Jersey

Mercer County

On this 15th day of January, 1985, before me, the undersigned a Notary Public, duly commissioned and qualified for in said county, personally came Frank Pravda to me known to be the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

Douglas S. Terhune Notary Public

DOUGLAS S. TERHUNE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires November 3, 1986